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DEAD MAN TALKING:
THE HANGING OF DAVEY HAGGART

By

PATRICIA LUCIE

SCHOOL OF SCOTTISH STUDIES

FACULTY OF ARTS

UNIVERSITY OF GLASGOW

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ABSTRACT

David Haggart was hanged for murder in 1821. Before he died he wrote an account of his life that sold well and generated a lot of comment, mostly of outrage. His posthumously published *Life* was not the only medium for this 'dead man talking.' So too was his cranium, measured by leading Edinburgh phrenologist George Combe and argued over in scientific and literary journals for almost a decade after his death. This is not a biography of David Haggart but a thesis about how he and the many people who attempted to explain his delinquency interpreted what he called 'the sporting life' and others called crime. It examines six 'versions' of him; that of the court that tried him, his own *Life*, his readers' responses, the theories of the phrenologists, the story told on the streets, and the cinema's attempt to portray him a century and a half later. What the world made of him was of particular importance because his criminal career coincided with major changes in society. Scotland was fast becoming urbanised. The population was both rising and moving, placing strains on poor relief, policing and housing. Although the period of most intense industrialisation lay ahead, working lives were changing in both countryside and town, and economic recession in the years following the Napoleonic Wars fuelled discontents and exacerbated poverty. It will be argued that both popular and scientific literature about wrongdoers changed significantly in the 1820s. In answering the question, 'What made Davey Haggart steal and murder?', the literature opened out to address the larger question of moral agency and even the possibility that nature and the environment might have shaped him, shaped all of us.

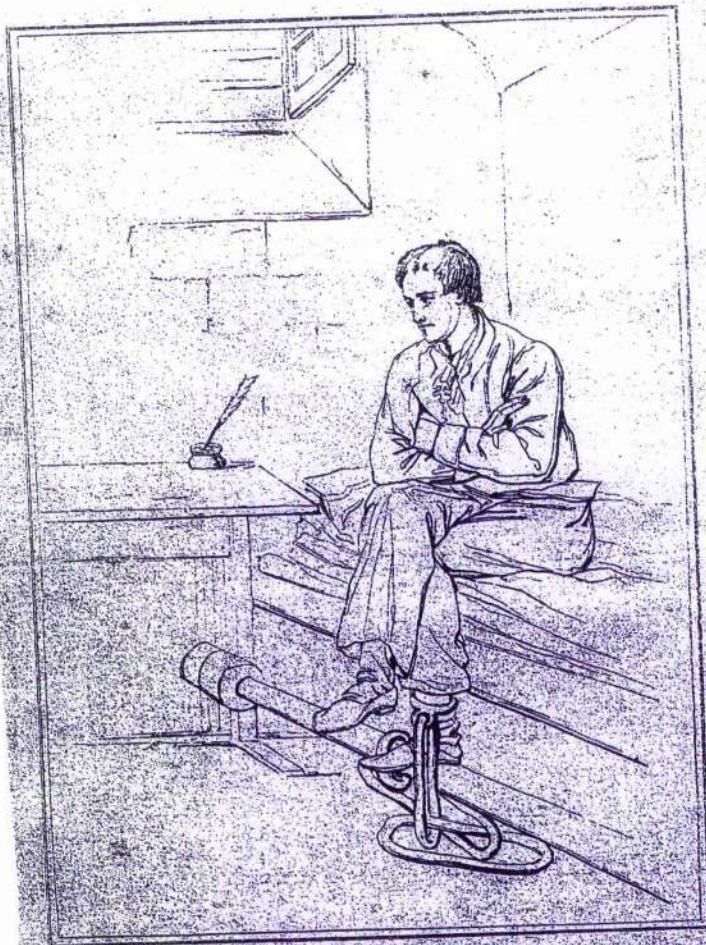
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My thanks go to Professor Ted Cowan of the University of Glasgow, my supervisor, who encouraged me to roam freely across the boundaries of academic disciplines.

Molly Rorke was a fund of information on slang and vulgar tongues. The staff of the National Library of Scotland, the National Archives of Scotland and the University of Glasgow's Special Collections could not have been more helpful.

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DAVID HAGGART.

Wrote under Sentence of Death.

THE BLIND MEN AND THE ELEPHANT

It was six men of Indostan
To learning much inclined,
Who went to see the Elephant
(Though all of them were blind),
That each by observation
Might satisfy his mind

The First approached the Elephant,
And happening to fall
Against his sturdy side,
At once began to bawl:
"God bless me! But the Elephant
Is very like a wall!"

The Second, feeling of the tusk,
Cried, "Ho! What have we here
So very round and smooth and sharp?
To me 'tis mighty clear
This wonder of an Elephant is very like a spear!"

The Third approached the animal,
And happening to take
The squirming trunk within his hands,
Thus boldly up and spake:
"I see," quoth he, the Elephant
Is very like a snake!"

The Fourth reached out an eager hand,
And felt about the knee.
"What most this wondrous beast is like
Is mighty plain," quoth he;
"'Tis clear enough the Elephant is very like a tree!"

The Fifth, who chanced to touch the ear,
Said: "E'en the blindest man
Can tell what this resembles most;
Deny the fact who can
This marvel of an Elephant
Is very like a fan!"

The Sixth no sooner had begun
About the beast to grope,
Than, seizing on the swinging tail
That fell within his scope,
"I see," quoth he, "the Elephant is very like a rope!"

And so these men of Indostan
Disputed loud and long,
Each in his own opinion
Exceeding stiff and strong,
Though each was partly in the right,
And all were in the wrong!

Moral:

So oft in theologic wars,
The disputants, I ween,
Rail on in utter ignorance
Of what each other mean'
And prate about an Elephant
Not one of them has seen!

John Godfrey Saxe

INTRODUCTION

David Haggart's life was short and eventful. It ended on the gallows on 18 July 1821 when he was 'about twenty' and had been convicted of murder at the High Court in Edinburgh. He was what would nowadays be called a 'persistent youth offender' with a 'revolving door' history of petty crime alternating with jail sentences, which he rarely served in full before exercising his considerable talent for escape. It was in the course of escaping from Dumfries jail that he killed a turnkey, Thomas Morrin, and then went on the run for a few months. Recaptured in Ireland, he was brought back to face trial and sentence of death.

Although in his time he was described as 'notorious' he did not achieve the kind of infamy that attaches to peculiarly depraved killers. When he struck Thomas Morrin over the head with a stone he certainly meant to disable him, steal his keys and escape, but he probably did not intend lethal force. His was not a name to rank with the sadists and poisoners, axe-murderers, rapists and child-killers who, then as now, haunted and titillated the public imagination. Haggart does not invite attention as a psychopathic ogre, or even as a peculiarly interesting example of a murderer. Nor does he claim fresh historical interest as a '*cause celebre*', a falsely convicted or misunderstood man. There is no miscarriage of justice to deplore and rectify.

A more colourable case may be made for reconsidering his reputation as a 'celebrity criminal', one who amazes us by his dexterity, cunning, boldness, or roguish personality and invites us to side with him in mocking authority. England had produced such characters in the eighteenth century, villains like Dick Turpin, Jack

Sheppard and Jonathan Wild, whose exploits were celebrated in popular ballads and plays.¹ David Haggart may have seen himself as belonging to this company but, despite some early kindling of such a reputation in broadside and ballad, it never took off. Some of the reasons will be discussed in the chapters that follow-- whether this was because his career came too late and missed the fashion for picaresque heroes, or he was not a sufficiently gifted pickpocket and escapologist, or a sufficiently charismatic one; or there was something about Scotland in the 1820s that made it inhospitable to that kind of criminal celebrity. He fared a little better in the twentieth century. William Roughead wrote about him. The distinguished novelist Allan Massie published an essay. American film director John Huston made a film. The Dictionary of National Biography included him.² None of it won him celebrity.

Haggart's failure to achieve a lasting place in popular culture is not the most compelling aspect of his story, however. The most important thing he did was to use the short, four week interval between being sentenced and being hanged to write an account of his life.³ This, and the many published responses it generated, did much more than tell the story of a 'nearly famous' criminal. Everybody, it seemed, had an opinion about this young man. Lawyers, clergymen, outraged citizens, the literati, broadside hacks and newspaper editors put their versions of Davcy Haggart into the public forum. When the leading phrenologist of the day, George Combe, visited Haggart in his jail cell, examined his head and published his findings, it unleashed a

¹ English rogues have attracted much more academic attention than Scottish ones. Of a considerable literature see Philip Rawlings, *Drunks, Whores and Idle Apprentices: Criminal Biographies of the Eighteenth Century* (London: Routledge, 1992).

² William Roughead, 'The Adventures of David Haggart', *Juridical Review* Sept 1917; Alan Massie, *Ill Met by Gaslight: Five Edinburgh Murders* (London: Futura, 1987) ; *Sinful Davey* (U.K. Ardmore Studios, 1968); *The Oxford Dictionary of National Biography: From the Beginning to 2000* ed. H.C.G. Matthew and B. Harrison (Oxford: Oxford University Press, c.2004).

³ David Haggart, *The Life of David Haggart, alias John Wilson, alias Barney M'Coul, alias John M'Colgan, alias Daniel O'Brien, alias the Switcher* (Edinburgh: W.&C. Tait, 1821).

bitter academic feud that questioned whether 'sinfulness' was a useful way of explaining a thief and murderer, or whether science might hold more answers. Together the different stories and explanations claiming the truth about Davey open a window on to what Scots thought about crime and the reasons people commit it, at a time when their society was in the throes of rapid, far-reaching change.

Haggart's criminal youth coincided with the years following the end of the Napoleonic Wars. His own family experienced that drift of the rural poor from countryside to town that was so characteristic of the age. They moved from Goldenacre by the Water of Leith into Edinburgh's Canongate, a district succumbing to the pressures of the city's rapid growth. In 1811 the city's population was just over 100,000. By 1821, the year of his execution, it had grown to 138,235. His crime sprees took place not just in the growing towns of Scotland but across a wide geographical area, from the Borders to the north of England, and over to Ireland. He moved and dodged amongst a population on the move, swelled by demobbed soldiers and Irish peasants driven by serious rural overpopulation to look for work on the mainland. Everywhere, the parishes and burgh councils were stretched and found wanting by the burdens placed on them by the movement of the poor, especially when combined with acute economic crises, such as the recession of 1817-18.⁴

Demographic and economic change created a context and a camouflage for itinerant crime. More than that, however, it created insecurity. These were nervous times after the war. People who owned property, both on the land and in the towns worried about crime and disorder. There were more beggars. Crime was rising. So was

⁴ The social and economic background is drawn from Christopher A. Whatley, *Scottish Society, 1707-1830* (Manchester: Manchester University Press, 2000).

unemployment. Fears of political unrest gained substance from the activities of the weavers and cotton spinners, culminating in the miserable uprising sometimes called the 'Radical War' of 1820. Police forces were still embryonic, under-funded and undermanned in the cities, patchy in the rural districts. Similar conditions in England led to quite draconian powers of punishment and the 'bloody code' of the 1820s. As we shall see, there were more hangings in Scotland than in previous decades, but nothing by comparison to England. No doubt there were plenty of Scots in reactionary mood, and we shall meet some of them. Haggart's life and death, however, also engaged Scots in a public debate of much greater interest and importance than how to dispense immediate retribution against wrongdoers.

Edinburgh in the post-war period may not have scintillated quite the way it did at the height of its Enlightenment reign as 'capital of the mind' in the last decades of the eighteenth century, but the legacy was still evident. Publishing and bookselling expanded to keep pace with the intellectual tastes of a growing reading public. The great magazines, the *Edinburgh Review* and *Blackwood's Edinburgh Magazine* were lively, controversial outlets for Francis Jeffrey and Christopher North and their respective camps to do battle. There was no shortage of literary interest in crime and sin. Sir Walter Scott was something of a collector of criminal '*Lives*' and the master of their use in fiction. Three years after Davey hanged, James Hogg would write that most penetrating of all investigations into the nature of sin and predestination, *The Private Memoirs and Confessions of a Justified Sinner*, which drew as much from the contemporary debate about crime as that about Calvinist theology.⁵ In 1827,

⁵ James Hogg, *The Private Memoirs and Confessions of a Justified Sinner; Written by Himself* (Edinburgh: Canongate, 1994, first published Edinburgh, 1824). Sir Walter Scott, *The Heart of Midlothian* ed. Tony Inglis (1818; London: Penguin, 1994,) is a fine example of the use of criminal lives.

Blackwood's Magazine published Thomas DeQuincey's article 'Murder Considered as one of the Fine Arts', drawing literary attention to the aesthetic possibilities of violent death.⁶ There was also still a serious academic community of scientists, medical men and metaphysicians, of whom William Hamilton was a leading figure, who aspired to carry the mantle of the Enlightenment and rose to the bait when challenged by the phrenologists to consider the proposition that criminal propensity could be physically identified and measured.

This was the intellectual world into which Davey's *Life* was launched by the Edinburgh publishers, W. & C. Taits, in 1821. There was, however, another, potentially more dangerous readership. Davey Haggart wrote for a less well educated audience. Priced at an affordable shilling and written simply, the *Life* found its way into circulating libraries and humbler homes as well as Henry Cockburn's well stocked library.⁷ How young people, tradesmen and apprentices formulated their opinions about a life of crime and the respect due to the authority of church and state was a matter of great importance in nervous times. The penny broadsides on sale to the scaffold crowd carried yet another narrative of this reprobate's life directly to the streets. Although most hangings in Scotland passed off without trouble, there had been a near riot and an attempted rescue of Robert Johnston in Edinburgh in 1818⁸. Readers of at least some versions of a condemned man's life were the members of a potential mob if things did get out of hand. Reading and writing could be a subversive

⁶ Thomas De Quincey, 'On Murder Considered as one of the Fine Arts' in *The Collected Writings of Thomas De Quincey* ed. by David A. Masson (Edinburgh: Adam & Charles Black, 1890) vol. xiii, originally published in *Blackwood's Edinburgh Magazine*, 1827.

⁷ As a token of gratitude for Cockburn's help in defending him at his High Court trial, David Haggart presented him with a copy of his book and a poem in his own handwriting, *Catalogue of the Valuable Library of the Late Lord Cockburn to be sold by Mr T. Nisbet, Nov. 22, 1854* (Edinburgh: Colston, 1854).

⁸ He was cut down from the gallows and carried to temporary safety by a crowd incensed by his suffering at the hands of an inept hangman. The event sparked a great disquiet and criticism of the police and magistrates. See Chapter 5 *infra*.

activity, or it could be a way of reinforcing the values of hard work, sobriety and church attendance, a way of teaching that the wages of sin is death.

Six 'versions' of David Haggart follow. Like the six blind men who went to examine the elephant of the opening poem, each 'saw' only a part of the whole. In this case, however, there is no thesis about what the whole elephant might look like if the parts could be assembled. The thesis is that the blind men themselves were more important than the elephant. Their various narratives are evidence of the anxieties, intellectual curiosity, creativity and even windbagery that fuelled public debate in these interesting, changing times, about what it meant to be a 'criminal'. I shall argue that in Scotland there was already in 1820 the beginning of that argument about 'nature versus nurture', which in spite of the scientific shortcomings of phrenology, was to dominate the inquiries of future generations of criminologists, psychologists and neurologists.

Chapter One begins with the narratives told to the High Court of Justiciary in Edinburgh about the murder of Thomas Morrin. There was no shortage of witnesses. Their statements, or 'precognitions' were taken before the sheriff-substitute and meticulously recorded by the local procurator fiscal in Dumfries for use by the Lord Advocate and the Crown Office in prosecuting Davcy. It is difficult to imagine a richer source for the social historian of crime. Precognitions are snapshots of what people were doing in the street, the tavern, the field, the factory, the market or fireside when something so significant happened that a hanging could depend on the accuracy of their recollections. Although some of them have been lost over the years, the National Archives of Scotland houses an immense, grimy treasure of such eye-witness

accounts of serious and sometimes not so serious crime. The precognitions in Davey's case are full and detailed. They were, however, the building blocks of the state's case. The accused had the right to remain silent at precognition and at trial he was not entitled to give evidence. Davey chose not to speak and when the case came to court he had no witnesses for his defence. The Crown had fifteen. There is no counter-narrative, therefore, other than what defence counsel was able to salvage from the weaknesses of the Crown's case on cross examination and put together as an alternative version in his closing speech to the jury. Whether a 'true' account emerges may be left to the reader after acquaintance with some of the witnesses, counsel, judges and jury.

In Chapter two Davey Haggart tells his own story. It was by no means unusual for a man to write a 'true confession' or a little biography on the eve of a hanging. The usual format was a page or two, agreeing that he deserved to die for his sins and tracing a descent from small trespasses to larger ones, from Sabbath-breaking to bad company, drink, theft and even murder. These were mainly written by turnkeys, or hacks who hoped to make a few shillings from their publication. Davey's *Life* was, in every sense, of a different order. It was long, at just over 150 pages. It contained a glossary to explain unfamiliar criminal slang. It was not much concerned with sin and remorse. Even contemplating death, this young man could not stifle a sense of the pleasure he had derived from his delinquent life. Whether his account is reliable, and even what we mean by 'reliable' depends upon answers to some of the questions raised in this chapter. Did someone help him write it? What made him write it, and for whose benefit? Could such a villain be explained as a hero?

Chapter three catches Haggart's *Life* in the mirror of readers' reactions and the impact it had on other criminal biographies. The little book caused quite a stir. Reviewers castigated its lack of morality, its factual inaccuracies, but most of all panicked over its popularity, especially amongst the young. It seems that its use of criminal slang had sparked off a bit of a craze of imitation. But were these real fears that the law was being mocked and that there was a dangerous subversive spirit abroad, or was it an over-reaction to urban change, increased numbers, pressure on housing and changes in traditional employment relationships? And were young people really talking like Davey? Did *he* talk like that? Whatever the truth, the reception given to Haggart's *Life* may have deterred other publishers from using such language, and it possibly imposed some kind of obligation on criminal biographers to make their moral message clearer. Detectives and policemen were heroic, not criminals.

Chapter four is about the extraordinary contribution of George Combe.² Phrenology was imported from Europe and struggled for recognition in Britain until Combe and his brother Andrew proselytised and organised on its behalf, making Edinburgh its capital. George Combe visited Haggart in jail, measured his cranial protrusions and wrote up a report of his findings which he sent back to the prisoner for comment. The report and the correspondence were published as a *Sketch* appended to Haggart's *Life*. The appendix caused as much upset as the text. In later years, when the claims of phrenology and its practitioners to scientific credibility lay crushed, the routine reports they published on the heads of deceased offenders drew little serious attention.

² George Combe was born in Edinburgh in 1788, one of thirteen children. He trained as a solicitor but was so powerfully convinced by the ideas of European phrenologists Gall and Spurzheim that he devoted his life to writing and lecturing on the subject. His output was prolific and his work popular. His biography was written by Charles Gibbon, *The Life of George Combe*, 2 vols. (London: MacMillan, 1878) Long neglected, scholars have recently turned their attention to him, notably in the work of John VanWyhe, *Phrenology and the Origins of Scientific Naturalism* (Aldershot: Ashgate, 2004).

But in the 1820s, and most of all in the case of David Haggart, their arguments drew real academic fire, albeit laced with scorn. The phrenologists' version brought biology and determinism to the debate, where they remain.

Chapter five goes into the streets to find what was being written about Davey on execution day. The National Library of Scotland houses a very large collection of broadsides, the cheap, frequently sensational one-page accounts of accidents, crimes, grave robberies, prize-fights and hangings that reached an enormous popular readership in the opening decades of the nineteenth century. These are now available online and provide access to a colourful source of popular culture.¹⁰ Most of them were anonymous and followed a predictable pattern. They had strong story lines and moral messages, but frequently made things up. To that extent they were not unlike modern 'redtops' like the *Sun*. They were more than news stories. For those who attended a hanging they were also a souvenir, a programme describing who was there, what people wore and how they behaved. They were part news, part artefact. The version of Davey that reached the streets would be governed by well accepted conventions. That does not preclude their usefulness, however, in revealing changes in the public mood, particular anxieties and sympathies, even possible limitations to their consent. It is impossible to be sure of what 'the crowd' thought of Davey and how he came to be on the scaffold, but the broadsides offer clues.

Finally Chapter six leaps a century and a half to find that David Haggart enjoyed a brief revival when a version of his life came to the cinema. *Sinful Davey*, released in 1968, was directed by the talented American director John Huston and starred John

¹⁰ The project is *The Word on the Street*, < <http://www.nls.uk/broadsides> >.

Hurt as a swashbuckling young Haggart.¹¹ It is a comedy of the same genre as, though much less successful than, *Tom Jones*. The nasty bits, including the murder of Thomas Morrin, are left out and the hero escapes the gallows in a last-minute ruse. It does contain some clever observations from a twentieth century perspective in which 'sinfulness' becomes a laughing matter. The film, like its hero, is quite forgotten now.

David Haggart's life, it will be argued, deserves to be remembered, not for its astonishing feats, but for the heat---and even the light---that it generated in the six blind men who examined it.

¹¹ *Sinful Davey* (UK: Ardmore Studios, 1968).

CHAPTER ONE

DAVEY HAGGART: THE COURT'S VERSION

David Haggart would later describe it as 'the blackest day of my life.'¹ It was 10 October, 1820 when he and a young fellow prisoner, John Dunbar, broke out of Dumfries jail. Most of what is known about the events of that day come from witness declarations elicited by the procurator fiscal, William Thomson, at a precognition or investigation held before the Sheriff- substitute two days later. Several witnesses described how they saw Haggart and Dunbar flee across the prison courtyard. A servant girl, Mary Gracie, had the best view. She came out of the kitchen with Thomas Morrin's infant son in her arms and witnessed Davey opening the jail door with a key, soldered in brass, which she knew to be the one the turnkey kept in his breast pocket. Now it was covered in blood. She spoke to him. 'Eh, Haggart, are ye gaun oot?' To which he replied, 'Damn ye for a bitch if ye speak a word, I'll knock out your soul.'² With this, he and Dunbar ran off into the street. Dunbar was soon recaptured. Davey was on the run and at large until May 1821, when he was arrested in Ireland and returned to Dumfries to answer for his crimes. The charge was more serious than jailbreaking. As he and Dunbar were running across the yard it had been to the sound of cries of 'Murder!' In fact this was a little premature, since Thomas Morrin was not yet dead. He staggered down the stairs leading from the cells, leaving a trail of debris behind him, a broken earthenware dish, a quantity of potato soup, a

¹ Haggart, *Life* p.86.

² NAS AD 14/21/248. 12 October 1820.

piece of mutton and a considerable amount of blood from a head injury . He died at ten o'clock that night, despite the best attentions of no less than five doctors.

On 11 June the following year when Haggart finally appeared in Edinburgh before the High Court of Justiciary, which had exclusive jurisdiction in cases of murder, the only question the court set itself was, 'Did he murder Thomas Morrin, as libelled?' In practice this meant that it confined its inquiry into just a few hours of one day in the life of the accused. The law's domain was criminal acts and not criminal lives. There was no place for a background report. Before turning to how the evidence for a murder trial was collected and tested in court, however, an acquaintance with his previous encounters with the law may yield some insight into the serious difficulties faced by the authorities in dealing effectively with a young man whose behaviour was incorrigible.

The road to court

Aged around nineteen in 1820, he was young, gifted and nomadic. He was an accomplished thief and pickpocket with previous convictions. Dumfries was not his first jailbreak. When he wrote his eve- of- execution autobiography, he may well have exaggerated his skills as an escapologist but deservedly or not he had acquired a reputation as a conjuror, a master of disguise, a mimic of accents and a youth for whom the walls of a jail were porous. He claimed to have escaped from jail in Newcastle in 1818 before having to answer a capital charge of robbery with violence at the spring assizes in Durham under the assumed name of Morrison.³ Not only that, but he bragged that he went back with a saw to retrieve his accomplice Barney

³ Haggart, *Life* pp.32-34. There is no documentary evidence of his court appearance.

Maguire who had got left behind in the initial breakout. This act of altruism was repeated in Edinburgh in January 1820 when he boasted of having sprung two friends from a lock-up house by getting their keeper drunk. In custody again in March 1820 he claimed that he escaped by working his way through leg irons and a thick stone wall with a file.⁴

In Ireland, where he fled to in November 1820, a month after the Dumfries breakout, he continued to treat his jailors' efforts to keep him under lock and key with contempt. He was twice arrested and put in prison. By now he suffered from having a high profile as a 'wanted' man. At Drummore he was recognised by a man who had been in Dumfries jail with him and he was unable to persuade the magistrate that he was in fact John McColgan from Armagh. His incarceration was brief. He jumped out of the window and ran. A short time and a few thefts later he was in jail again, this time in Downpatrick, trying to pass himself off as Daniel O'Brien. It was here, however, that the law would finally catch up with him in the person of John Richardson, the sheriff officer of Dumfries, who had been conscientiously hunting him since the October breakout. Richardson was not fooled by Davey's fake Irish brogue and he was clapped in irons for return to Dumfries to face a murder charge in May 1821.⁵

Jailbreaking did not invariably call for the skills of a conjurer. Haggart was in and out of prisons frequently in various parts of the country and must have been something of a connoisseur of prison architecture and culture. Often in disrepair, the buildings were anything but secure. When he first arrived at Dumfries jail in September 1820 Davey immediately noticed that the iron frame of the window was only fixed with lime. It

⁴ *Ibid.*, p.71, 76.

⁵ *Ibid.*, pp.120-141.

invited escape. If this is the case the authorities had learned nothing from the previous century, when, as one scholar of Dumfries history notes, 'Prisoners seem to have been constantly bursting their way out of jail, through the roof, by burrowing under the walls, by cutting through the clasps of the doors or by overpowering their jailors'.⁶ In an 1819 report from a select committee to Parliament Sir William Rae, then sheriff depute of Edinburgh, deplored the dilapidated state of the prisons in the Scottish burghs. He reported again in 1826 and found no progress in the interim. Security was seriously defective.⁷

In addition, supervision was often lax and drink plentiful. Ireland's Downpatrick jail was quite extreme. Haggart recorded drunken visits to the women's section when the men bored a hole to the floor above them. It may be a sad comment on his young life that he enjoyed the resulting 'wickedness' so much that 'of all the scenes of my short and evil life, none ever came up to the jail of Downpatrick'.⁸ Yet he had contradictory feelings about their usefulness. Whether the following were his own sentiments or those of a pious visitor to his cell as he committed his reflections on his life to paper, they have a familiar ring:

A prison is the bleakest and wickedest place in the world . Many a poor boy is brought to the gallows at last, because his first offence is punished by imprisonment. This teaches him evil ways, whereas if he had been well flogged and sent home to his parents, he might have turned out a good man. I cannot say that my bad habits were learned in jail, but I am sure they were confirmed there.⁹

There were to be no more escapes for Davey, however. All in all he had been imprisoned six times and escaped four times. It had taken seven months to find him

⁶ Marion M. Stewart, 'In Durance Vile': Crime and Punishment in Seventeenth and Eighteenth Century Records of Dumfries', *Scottish Archives* 1(1995) p.73.

⁷ Report from the Select Committee, Minutes of Evidence and Appendix, vol.vii Sess., no.579pp.241-258; Report from the Select Committee, Proceedings, Minutes of Evidence and Appendix, 1826 Vol. 5 (session no.381).

⁸ Haggart, *Life* p.134.

⁹ *Ibid.*, pp. 134-135.

and return him to Dumfries. It is not difficult to understand why he thought himself rather clever. If rickety prisons and drunk or negligent jailors also contributed to his success as an escapee, it remains to assess how effective Scotland's policemen were in catching him.

Policing in Scotland was patchy and very much depended on the energies and fiscal provision of local authorities.¹⁰ Dumfries was, in 1811, one of the first burghs to have a police force, set up, like those of Glasgow, Edinburgh, Greenock and Paisley under private local Police Acts empowering police commissioners to levy rates for the purpose. The police had more to do than catch criminals. They were tasked with drainage, paving, lighting and cleanliness. They were frequently underfunded, understaffed and under suspicion of corruption. The Dumfries force ran into fiscal problems which ended its independent existence for a short time in 1819. At the same time Edinburgh's police superintendent, Captain Brown, was the subject of investigation after allegations of fraud, waste and jobbery, including drawing the salaries of fictitious policemen and employing others on his own domestic duties. Captain Brown survived the investigation, and kept his job, though he was not unscathed.¹¹ The *Caledonian Mercury* kept up a barrage of criticism, as did the *Scotsman*. Edinburgh's Whigs were very discontented with the magistrates of Edinburgh for its handling of police matters. The fact that Captain Brown had received £100 for his 'great exertions' at the execution of Robert Johnston in 1818 was a particular affront, given that he and his officers had hidden in St Giles when a

¹⁰ *The Laws of Scotland: Stair Encyclopaedia* (Edinburgh: Law Society of Scotland, Butterworths, 1987).

¹¹ Capt. James Brown, *Letter to the Right Honourable the Lord Provost from Captain Brown, Superintendent of the Edinburgh Police on the Subject of the late Investigation into the Police Establishment*, (Edinburgh: Constable, 1820. For background, James D. Marwick, *Sketch of the History of the High Constables of Edinburgh: with Notes on the Early Watching, Cleaning, and other Police Arrangements of the City*, (Edinburgh, 1865).

crowd rescued the half strangled man from a botched and terrible hanging and carried him off up the High Street. In a hideous sequel, the man was returned for a second attempt.¹²

When Davey's *Life* was published, with its youthful mocking of the police or 'bulkies' as he called them, a writer to the *Scotsman* took its lesson to be that 'the maxim of setting thieves to catch thieves must be abandoned.' The police were mired in politics and there would be no improvement until it became 'the business and interest of honest folk to watch, restrain, and detect rogues.'¹³ In fact Captain Brown was undeserving of this jibe personally, if only in respect of Haggart, since he had arrested him in 1819, an arrest which led to him serving his full, four months sentence. Nonetheless, it was true that policing the rapidly expanding towns left much to be desired.

Paradoxically it was in the rural counties, as Carson and Idzikowska noted, that the first identifiable movement towards the familiar modern idea of police work occurred. What drove that development was vagrancy. 'It would be no exaggeration to conclude that these early police forces were in most instances an extension to the highly defective local machinery for handling Scotland's wandering poor.'¹⁴ In the countryside, the consolidation of small tenancies into larger units left many with the choice between becoming a wage labourer or moving to the towns. In the years after the Napoleonic Wars, uprooted Highlanders, Irish and demobbed soldiers joined the

¹² A lengthy public correspondence on the execution of Robert Johnstone was provoked by a *Letter to the Magistrates of Edinburgh on the Execution of Robert Johnstone by an Eyewitness* (Edinburgh: Thomas Turnbull, 1819), first published in the *Scotsman*. The National Union Catalogue attributes authorship to Henry Cockburn.

¹³ *The Scotsman*, 28 July 1821.

¹⁴ Kit Carson and Hilary Idzikowska, 'The Social Production of Scottish Policing, 1795-1850' in Douglas Hay and Francis Snyder, eds. *Policing and Prosecution in Britain 1750-1850* (Oxford: Clarendon Press, 1989) p.273.

lowland rural poor to become a 'massively shifting population'. It was not only a dislocated population, but it was also a very rapidly rising one. In 1801 the population of Scotland was 1,608,240. In 1821 it was 2,091,521. Scottish Poor Law made no provision for the able-bodied poor and did not require local authorities to make compulsory assessment for poor relief. In consequence they did not encourage vagrants to stay long. People were forced to move on, looking for work. Davey Haggart did not wander the countryside around southern Scotland, northern England and Ireland alone. He would meet the wandering poor again in jail. Under a proclamation of 1692 travelling beggars could be arrested as vagabonds and jailed for a month. John Dawson Burn's *Autobiography* records how, as a boy travelling with his father in the early nineteenth century, 'within the space of two years I had been the inmate of every jail in the south of Scotland'.¹⁵

There was a general perception that, against this background, crime was on the increase. Statistics are difficult to find and more difficult to interpret but Ian Donnachie's work on the Lord Advocate's precognitions for the period suggests that there was a fourfold increase in investigations of serious crime, even after the figures are adjusted to take account of the population increase¹⁶. Amongst them were many young offenders. Almost half the population was under twenty. Of the three prisoners in the cell the day Thomas Morrin was murdered in Dumfries jail Davey was the eldest, at nineteen.

¹⁵ John Dawson Burns, *The Autobiography of a Beggar Boy* (1855, reprinted London: Europa 1978) p.43 Irish Catholics like his father were least welcome and unlikely to apply successfully to the Kirk Session, which had to vouch for the moral character of applicants for relief.

¹⁶ Ian Donnachie, 'Profiling Criminal Offences: the Evidence of the Lord Advocate's Papers During the First Half of the Nineteenth Century in Scotland' *Scottish Archives*, 1 (1995) pp.85-92. His findings are that crime was increasing in Scotland in a very similar pattern to that of England.

A travelling, uprooted population, often young, poor and unemployed was a powerful argument for improved policing. Rural property owners, satisfied that there was a link between the wandering poor and crime, pressured county authorities to establish police forces. It was a slow development, but by 1839 a dozen Scottish counties had some sort of police force, the earliest of which were on the 'vagrancy routes' to the cities, including Kirkcudbrightshire and Ayrshire. These were embryonic, however, and not omnipresent enough to deter Davey Haggart. He made ample use of the 'vagrancy routes', some of which converged in Dumfries, with its busy markets and strategic position on the road between Scotland and England, as well as its connections to Ireland. It was still in 'a frontier situation. In short it was a fine, busy place for crime.'¹⁷ Anywhere there were crowds presented opportunities for pick-pocketing and theft. County fairs were where wallets were to be found in the unguarded pockets of gullible, inattentive or inebriate folk. When one place was exhausted, there were pastures new, in Leith, Perth, Newcastle, Edinburgh or Durham. Arriving in Ireland while on the run in November 1820, Davey enthused, 'Paddyland is the place for pickpockets; lots of money, oceans of drink....England is too much hunted, and there is no money in Scotland.'¹⁸

For all that it was not an unsupervised playground for criminals. The fact of the matter was that David was caught, not once but often. He was very distinctive looking, red haired, tall and long-legged. He often returned to his familiar haunts and agreeable accomplices. The 'bulkies' whom he represented as feckless and easily outwitted were not all so ineffective. Three men were important and reasonably competent adversaries. Captain Brown, the beleaguered Edinburgh superintendent, made the

¹⁷ Observation made of the previous century but arguably still accurate in 1820, Marion Stewart. 'In Durance Vile' : Crime and Punishment in Seventeenth and Eighteenth Century Records of Dumfries', *Scottish Archives* 1 (1995), p.63.

¹⁸ Haggart, *Life*, p.113.

successful arrest already noted in 1819. Captain Ross, superintendent of the Leith police brought an end to a spree of theft and housebreaking the following year, and although Haggart escaped from jail on that occasion and fled to Dumfries, the police there arrested him and Ross travelled down to bring him back by stagecoach to Edinburgh to face trial in the High Court in July 1820. When Davey escaped from Dumfries jail in October, he returned to Edinburgh, where he realised that the net was closing. There were 'wanted' posters around the city and he ran into Captain Ross unexpectedly, narrowly escaping arrest. He fled to Ireland, which turned out to be no refuge. It was not long before he was recognised there and news of his whereabouts filtered back to Dumfries.

His nemesis was to be John Richardson. He had been one of the first on the scene to come across the stricken Thomas Morrin in the jail yard at Dumfries that day in October. He had immediately taken charge, bringing calm to a confused situation.¹⁹ He was not a policeman, but a sheriff's officer, a traditional law enforcement officer, and he had begun the hunt for Davey immediately. Now, seven months later and having been tipped off that his quarry was in jail in Ireland, he set off, armed with a warrant for his arrest. This time Richardson got his man, whom he recognised on parade at Kilmainham jail. When Haggart recalled the circumstances of his arrest and his failure to fool Richardson with his Irish brogue, he described him without the swaggering contempt he usually showed for 'bulkies'.²⁰ He was, said Davey, 'kindly', a surprising compliment since he was locked up in irons 'with a crippling iron helmet'. As for Richardson, the arrest and the journey back to Dumfries with his prisoner took its toll on his nerves. A letter from Dumfries procurator fiscal William

¹⁹ NAS AD 14/21/248 12 May 1821. Davey was already known to Richardson for the crimes he committed in April 1820 during the period of his escape from Leith jail the previous month. NAS AD 14/20/ 182 April 1820.

²⁰ Haggart, *Life* p.141.

Thomson to the Crown Office on 2 May 1821 requested assistance with manpower to bring Haggart to Edinburgh for trial the following month since 'our Officer Richardson who has been to Dublin for the prisoner, has suffered somewhat in his health from his fatigue and anxiety, and we have no other officer who could so well be depended on to go to Edinburgh'.²¹

David Haggart had proved to be a great nuisance and a headache to those who tried to catch and keep him at a time before there was anything more than a patchy and rudimentary police provision and jails were far from secure. Against this background, Richardson's success, even if belated, was reassuring law enforcement work. As he and Davey approached Dumfries they were met by a crowd carrying torches. Perhaps some turned out because they felt relieved that he had been caught at last, or because they were simply curious to see the 'conjurer'. Davey himself thought that 'some seemed sorry, and some terrified for me; but there was not one of them all so sorry or so terrified as I was.'²²

Haggart had seen the inside of jails in three jurisdictions and could have been on trial for his life in any of them. Was he fortunate or otherwise to face trial in Scotland? Had he read Baron Hume's *Commentaries* he might have been persuaded that he could expect a fairer trial than anywhere else. Prosecutions in Scotland were undertaken by the Lord Advocate, who, although he was appointed by the government of the day, was relatively free from fear or favour. The investigation of crime and the lawful collection of evidence was the business of an independent local procurator fiscal who elicited declarations from witnesses at a precognition against the accused, held in the presence of a sheriff or sheriff-substitute. The fiscals were under the

²¹ William Thomson to Crown Agent Adam Rolland, 2 May 1821, NAS AD 14/21/ 248.

²² Haggart, *Life* p.145.

direction of the Lord Advocate, whose Crown Office ensured that the evidence had been taken according to the rules and that it was sufficiently strong to prosecute. Once in court—the High Court of Justiciary had exclusive jurisdiction in murder trials—the accused could be assured of a battery of safeguards against double jeopardy and self-incrimination, for example in the requirement in most cases that confessions be corroborated. There was room for argument about how fair a trial was in practice, and Henry Cockburn had reservations about jury impartiality. There was one jewel in the crown of Scots law, however, about which there was no doubt. Indigent people on trial at the High Court would be furnished with an advocate from the ‘Poor’s roll’. It was the willingness of men like Thomas Maitland and Henry Cockburn to offer their services for free that gave the accused his best hope.

Haggart was a man who enjoyed the gaming table and he might also have been comforted if he had known that the risks of being hanged in Scotland were considerably lower than in England and Wales. Scotland’s approach to hangings will be discussed more fully in Chapter Five. It is sufficient to note here that in the decade before Davey’s trial it is estimated that eight hundred and ninety-two people were executed in England and Wales, as against seventy-three in Scotland. Even allowing for the fact that the population of England and Wales was six times greater than that of Scotland, the odds against a hanging were comparatively comforting.²³

Any comfort drawn from these statistics, however, would soon evaporate in the face of another set. There may be many reasons why Scotland made such modest use of the gallows. It may be that fewer Scots deserved to hang and refrained from

²³ For comparative statistics, M.A. Crowther, ‘Crime, Prosecution and Mercy: English Influence and Scottish Practice in the Early Nineteenth Century’ in S.J. Connolly, ed., *Great Britain and Ireland Since 1500: Integration and Diversity* (Dublin: Four Court Press, 1999); Archibald Alison, *Principles of the Criminal Law of Scotland* (reprt; Edinburgh: Butterworths, 1989); V.A.C. Gattrell, *The Hanging Tree: Execution and the English People 1770-1868* (Oxford: Oxford Univ. Press, 1994) Appendix 2.

perpetrating the crimes that would land them there. That seems unlikely. It may be that Scotland had a more humane approach to punishment, reflected in its much shorter catalogue of capital crimes. It may be that the police had a lower success rate in bringing criminals to book. It is very likely that prosecutors in Scotland were more cautious in bringing capital charges, given the cost and labour involved. These are arguments to return to. What is clear is that, once the decision to prosecute was actually made, as in Davey's case, it would be far likelier than in England to end with a hanging. Acquittal rates were consistently lower in Scotland. So, too, were the numbers of pardons once a conviction was obtained. In the year of Haggart's trial, one thousand one hundred and thirty four people were sentenced to death in England, of whom one hundred and fourteen were hanged. In Scotland, twelve were sentenced to death, of whom nine were hanged.

There may have been greater prosecutorial caution about bringing capital charges, but it was not matched by any reluctance to convict and hang thereafter. As Anne Crowther observes, 'In England, over 90% of the condemned had their sentences commuted in the 1820s: in Scotland only 44%.²⁴ As in England, it was open for the judge to forward his notes and opinions along with any recommendation for mercy from the jury to the home secretary. The judge's opinion was of special importance and the Crown most likely to defer to it. But Scots judges were not given to earnest pleas to spare a life after a guilty verdict had been reached, not because they were less humane than their English brethren, but because in Scotland there was no need to use pardons as a means of mitigating a 'bloody code' of over two hundred capital statutes. Scots law was leaner and its penalties more likely to be carried out. And there was another important reason for pessimism. The murdered man was a keeper in one of

²⁴ Crowther, 'Crime, Prosecution and Mercy' p.233.

his majesty's prisons. If the jury brought a guilty verdict, who would dream of asking for a pardon? The odds against Davey Haggart as his trial began on 11 June 1821 were daunting.

The Crown had every reason to be confident of its case. Dumfries procurator fiscal William Thomson had been diligent and the fifteen witnesses he called had made declarations at the precognition hearing that added up to a solid basis for a guilty verdict. Of course witnesses were not bound by their declarations when they came to court and there was always a crumb of hope. Mindful that it was up to the prosecution to prove its case, David chose to remain silent at precognition. He also claimed not to be able to read or write anything other than his signature. He may not have been familiar with the fine print of Hume's *Commentaries*, but he was a professional who was 'jail-educated' in the law. Despite his claim to illiteracy he later wrote of his decision not to speak at precognition, 'and this I would advise every man who is accused of crime to do, whether he is innocent or guilty.' The accused was not permitted to testify until 1896. Avoidance of a hanging depended entirely on what his advocate could do to make the Crown's case fail.

A Day in Court....and a Rehearsal

As he walked into the High Court to answer the charge of murdering Thomas Morrin, Haggart smiled when he 'observed the precaution of two extra officers, who took their station on the seat immediately behind him.'²⁵ Amongst a sea of faces there were quite a few he would recognise, for it was not his first appearance at the High Court in Edinburgh.²⁶ A year previously, on 12 July 1820, he and another youth, William

²⁵ *The Edinburgh Advertiser* 12 June 1821.

²⁶ The High Court of Justiciary sat in Edinburgh. The Lord Justice-general was its titular head. Its working head was the Lord Justice, in this case Lord Boyle, who presided over the Court with its five

Forrest, appeared on charges of theft and housebreaking. He would, therefore, know his prosecutors. Solicitor General Maconnachie and advocate depute John Hope appeared for the Crown then too. The bench consisted of the same judges. Of the faces he would be better pleased to see, there was Thomas Maitland, advocate, and George Robertson, the solicitor who instructed him.²⁷ They had defended him the previous year and were now joined by the bar's rising star, Henry Cockburn, who was related to Maitland by marriage. All of them had good reason to remember Davey, since his had been more than a routine case. It is worth pausing to consider what happened the previous year, since it shows how valuable it was to be equipped with vigilant counsel, in effect the only asset the accused had.

In this earlier case the two young men confessed to their crimes and affirmed their confessions in the presence of the jury on 12 July 1820.²⁸ In theory this was sufficient evidence on which to proceed to conviction, but the court, perhaps reflecting the law's suspicion of confession without corroborating evidence, and thinking it 'expedient' in view of the age of the panel (Forrest was younger than Haggart), proceeded to hear evidence from several prosecution witnesses. This led to the curious result that the jury returned a verdict of 'not proven' on the charge of housebreaking, despite the confessions. In the matter of theft, the verdict was 'guilty'. But this was far from the end of the matter. Defence counsel, Thomas Maitland, seized on a possible challenge to the verdict. The libel, which described the offences, was in two parts. The 'major'

other Lords of Justiciary, drawn from the Court of Session where they also sat in civil cases. The other judges were Lords Meadowbank, Pitmilley, Succoth, Hermand and Gillies, all, except Gillies appointees of a Tory administration.

²⁷ Thomas Maitland was an Edinburgh graduate, called to the bar in 1813, where he built up a successful practice. He later served on the Court of Session as Lord Dundrennan. Very little is known of George Robertson, Davey Haggart's agent but it was he who prepared Davey's *Life* for publication. He became a sheriff substitute in Portree and died there in 1844.

²⁸ The precognitions in this case, NAS AD 14/20/122 are very full indeed and run to 225 pages. They leave very little doubt as to the appropriateness of confession. The jury's 'not proven' verdict on housebreaking appears to have been based on the fact that he entered by an open window.

proposition addressed the offences of theft, housebreaking, theft aggravated by housebreaking, prison- breaking and reset. The 'minor' proposition listed eleven separate and distinct incidents of theft. The question was whether a verdict of guilty of the generic charge of 'theft' was sufficiently precise when the jury had made no findings on the specific incidents in the libel. Counsel was given permission to prepare an information, or memorial on the legal arguments, and the Crown was instructed to prepare its reply for submission to the Court on 13 November . The case was continued until then. In the meantime Davey was returned to Dumfries prison to await their decision and answer further, outstanding charges there at the next circuit of the High Court.²⁹

Given that Thomas Maitland and George Robertson gave their services free, this was quite extraordinary good value. In Scotland, when the accused was too poor to pay for counsel, the Faculty of Advocates would appoint an advocate to represent him, a duty that he was not permitted to decline. In practice, in important cases, distinguished advocates volunteered their services. Sheriff Archibald Alison noted, 'It is no unusual thing to see the same counsel who are retained in the cases of the first Peers of the realm one day, engaged the next in the defence of the poorest and most destitute criminals.'³⁰ He did not add, as perhaps he should, that counsel would often be ill prepared and fly on a wing and a prayer. Criminal law was the poor relation of civil law, where fortunes and reputations were to be made, but young advocates nonetheless found that there were intellectual challenges and public acclaim to reward their efforts in defending the 'Poor's roll'. One such challenge was to raise a

²⁹ Copies of defence and prosecution memorials are in NAS AD 14/21/248. Twice a year, spring and autumn the judges went in pairs on circuit to the south (Jedburgh, Dumfries, Ayr), the West (Stirling, Inverary, Glasgow) and North (Perth, Aberdeen, Inverness). Davey was down to appear in September.

³⁰ Archibald Alison, *Principles*, p.xxxiii.

‘technical nicety’. The raising of objections on matters of form and procedure was, then as now, regarded by some as trying to get a man off on a mere technicality and by others as defending the very bulwarks of liberty.

Advocates would look to Hume’s *Commentaries on the Law of Scotland Respecting Crimes* as guide and compass. It was the first major modern treatise on Scots criminal law and it quickly became authoritative. It certainly did not originate as a text for the better protection of the indigent accused. Indeed Henry Cockburn was of the opinion that it was undertaken as a Tory defence of allowing judges a great deal of discretion rather than suffering law reform at the hands of the legislature.³¹ It was an argument for Scots autonomy to develop in a manner appropriate to its own, different circumstances, without English interference. He began modestly with the observation that ‘in many ways our practice has not yet attained to the same maturity and consistency as that of our sister kingdom’.³² In fact he put this down to the fact that there were more ‘dissolute and profligate’ people in England, requiring the criminal law to expand and meet circumstances unknown to Scotland. He then went on to demonstrate how much fairer a Scots criminal trial was. Hume generated a self-confidence and pride in native procedures which may not have been fully justified but came to be seen as a national asset. The *Commentaries* offered no theories for the better protection of liberty, no attention to the proper limits on state power, no abstractions. It was not a book about theories or principles, but it was about the

³¹ Henry Cockburn, *Memorials*, pp.163-164. Cockburn was still smarting from the unfairness of the sedition trials in which he acted for the accused. These took place in 1793-1794, in the wake of the French Revolution when the government sought to suppress political dissidents, the best known of whom was Thomas Muir of Huntershill. See Henry Cockburn, *An Examination of the Trials for Sedition* (Edinburgh, 1853).

³² Hume, *Commentaries* Vol 1, p.4. For an excellent discussion of Hume’s ‘jurisprudence of practice’, see Lindsay Farmer, *Criminal Law, Tradition and legal Order*, (Cambridge: Cambridge UP, 1997)ch.2. Before Hume there was Mckenzie’s *Laws and Customs of Scotland in Matters Criminal* (Edinburgh: James Glen, 1678)

application of reason to practice. It enabled practitioners to identify errors, measure their own client's case against the broader development of the law, and probe with new facts the areas Hume identified as unsettled or unsatisfactory. The intellectual tasks he set may have been 'practical' but they committed bench and bar to continuing education. All of this was meaningless to a man without counsel.³³ Davey Haggart was fortunate to have Thomas Maitland.

Maitland had identified something he thought was more weighty than a 'technical nicety' and turned to Hume's *Commentaries* as authority, where he found that a verdict must 'apply to the indictment, and convict the panel, not only of the species of crime, but of the particular fact which is charged'.³⁴ Modern ideas of correctness and precision, argued Maitland in his memorial, were offended by a verdict which left total uncertainty as to the extent of guilt. Did the jury find the evidence sufficient in one of the eleven incidents of theft, six, or ten? 'No court,' he said, 'is obliged to interpret the meaning of a jury; or to give judgement, as it were, in the dark, upon the mere security, that what the panel suffers is not more than he deserves'. Without specificity, the court might 'fix upon, and punish for a crime never contemplated'.³⁵

There is no doubt that, in addition to the presence of counsel, the feature of Scotland's legal system which could work towards a fair trial for the accused was that, at least in the High Court at Edinburgh, he was tried by a bench of six judges

³³ Archibald Alison commented on the energies of young counsel in taking up 'technical niceties.' He attributed more than half of all acquittals to these, *Principles*, p.xxii. For another writer, in 1866, the pendulum had swung too far in 'tenderness' to the accused and he listed over a hundred cases in which 'technicalities' had allowed prisoners to walk free. W. Dunbar, *Escapes of Prisoners on Technical Grounds*, (Glasgow: Thomas Murray, 1866).

³⁴ Hume, *Commentaries* vol. 2 p.452.

³⁵ NAS AD 14/21/248.

rather than, as in England, a judge sitting on his own.³⁶ Prejudice or ignorance was diluted. In this instance, the High Court had shown some care for the two accused by having called for corroborative evidence in addition to their confessions, and having agreed to continue the case to a later date to allow both sides to prepare their arguments on the sufficiency of the verdict. A handwritten note of their deliberations on February 5 1821 shows that the High Court judges gave very serious consideration to Maitland's arguments and that they were divided. Lord Hermand's opinion was that 'no judgement can proceed upon so confused a verdict'. Lord Succoth agreed that Hume's *Commentaries* were authority for the defence's argument. Their colleagues, Lords Gillies, Pitmilley, Meadowbank and Boyle, outvoted them, but not without admitting that they found it a 'puzzling' and 'difficult' case.³⁷ Hume seemed to lend support to the Crown's position too, for he had also written that, 'the conviction is good, if the verdict is applied to the charge sufficiently in substance....though the writing is not expressed in the most correct fashion'.³⁸ A majority of the judges were ultimately persuaded that the jury's verdict that the young men were guilty of 'theft' included the eleven separate thefts, and there was no need to separate them. William Forrest was sentenced to twelve months hard labour. In Davey's case it no longer mattered. He had escaped from jail and was wanted for murder.

David Haggart's first appearance in the High Court had been notable for both the good efforts of his counsel and the evident commitment of the judges to take

³⁶ On circuits of the High Court in Scotland, however, only two judges sat.

³⁷ Notes of the opinion of the Judges on advising Informations in the case of Haggart and Forrest, Edinburgh, 5 February 1821, NAS AD 14721/248

³⁸ Hume, *Commentaries* Vol 2 p.453. Hume argued for a 'common sense' approach to 'consider verdicts in their substance, and whole circumstances of relation to the case.' This seems to invite further discussion. Maitland wrote the more convincing memorial.

arguments about fairness towards the accused seriously. The contact he made with Maitland and George Robertson stood him in good stead in June 1821 when he again stood in dire need of a good defence. This time they were joined by Henry Cockburn. This distinguished Whig reformer, writer and advocate, was well known for his forensic legal skills, though he was inclined towards indolence and in criminal trials his fame rested more upon his oratory and ability to move a jury. As 'Peter' wrote to his kinsfolk,

Or all the great pleaders of the Scottish bar he is the only one who is capable of touching, with a bold and assured hand, the chords of feeling; who can, by one plain look, convey the whole soul of tenderness, or appeal, with the authority of a true prophet, to a yet higher class of feelings which slumber in many bosoms, but are dead, I think, in none.³⁹

He was the master of psychology, addressing the court in a 'homely' Scots dialect and using the images and allusions of ordinary life. So persuasive could he be that John Hill Burton complained of the jury's verdict in an 1827 murder case, that ran wholly counter to the evidence because 'he saw that he had to deal with a stupid jury, and with consummate style he lowered the tone of the persuasions to hit their stupid minds'. Cockburn seduced juries.⁴⁰

If ever anybody needed such help it was Davey Haggart. The Crown came to court with very strong cards in its hand. The charge was murder. It did not have to show that Davey had a purpose to kill the turnkey, Thomas Morrin, or even that it was he who struck the fatal blow. It was enough to prove that he was complicit in a plan to break out of jail that involved assault and resulted even in unintended death.⁴¹ A

³⁹ John Gibson Lockhart, *Peter's Letters to his Kinsfolk* ed. by William Ruddick, (1819; reprt.; Edinburgh: Scottish Academic Press, 1977) Letter 19.

⁴⁰ John Hill Burton, *Narratives from Criminal Trials in Scotland*, (London: Chapman and Hill, 1852) pp.61-62.

⁴¹ For discussion of the mental elements of homicide see Hume, *Commentaries* vol.1 pp254-6 and David M. Walker, *A Legal History of Scotland* (Edinburgh: Green Nexis, 1988-) Vol.6. Ch.15.

violent push causing a fall would amount to murder in such circumstances. Thomas had been killed by a large paving stone in the toe of a specially sewn long piece of stocking.

If the defence counsel could be expected to produce oratorical fireworks, the prosecution had something better, a meticulously prepared case. Mostly this was the work of William Thomson, the procurator fiscal in Dumfries. His correspondence with the Crown office in the weeks leading up to trial discloses a professional attention to detail. The precognition, conducted by sheriff substitutes Baillie and Kirkpatrick, was painstaking and thorough. Fifteen witnesses were cited to give evidence on every point. Of course, things could still fall apart on the day but if so, it would not be for the want of conscientious work by the fiscal, the sheriff's office and the Crown Office. This was the prosecution's version of what happened on 10 October 1820:

It was lunchtime at the prison. The head jailor, Thomas Hunter, took some dinner to three prisoners, Davey Haggart, John Dunbar and Robert Simpson. At twenty minutes to one he left to spend the afternoon at the races, leaving the turnkey Thomas Morrin in charge.⁴² There were some visitors. Two clergymen had come to see a prisoner, Edward McRory, in the condemned cell, just along the corridor from an area known as 'the cage', where the three young prisoners had spent the morning.⁴³ Despite its name this was a place prisoners preferred to be. It was an airier and more spacious place than the cells, and the young men had been given permission to spend the day

⁴² At precognition in May, Hunter explained that it was not unusual to leave him in sole charge. On a Sunday they took turns to attend church. NAS AD 14/21/248.

⁴³ Edward McRory was an Irishman who was condemned to death at the autumn circuit of the High Court for assault and robbery.

there. Robert Simpson, fifteen years old, had almost finished serving a fourteen day sentence for vagrancy. He was to be released next day and he was in the cage to clean his clothes and shoes for the morning. John Dunbar, a sixteen year old, had been found guilty of theft and was awaiting transportation to Australia. Davey had been found guilty of theft but was awaiting the High Court's decision on his counsel's arguments challenging the verdict and had further charges to face in Dumfries.

As Thomas walked across the jail-yard below, carrying a plate of mutton and potatoes for Edward McRory's dinner, Dunbar called down to him 'the men wants out', meaning that the two clergymen visiting him were ready to leave. At the time he called out, Haggart was not in the cage. He had gone to the 'necessary'. The cage door was left open to allow them to reach this toilet on the stairs. Thomas opened the main door at the foot of the stairs and passed the necessary. He asked Davey if he was finished and went on by to the cage door, which he needed to close before he could reach McRory's cell. There was a crash. Next thing, Davey Haggart and John Dunbar were seen in flight, opening the front door with a bloody key. Their cellmate Robert cried 'Murder' as Thomas came staggering into the yard. There was no shortage of witnesses as to what happened after that. One witness recalled somebody saying to Thomas a little insensitively, 'Ye're fairly murdered', to which he replied, 'D'ye think so?' He died of head wounds eight hours later. He was attended immediately by a passing doctor and then another was called and a third was brought in to do a trepanning, but all was in vain. One remarkable feature of the story is the number of medical men who turned up that day, five in all. One doctor was later critical of the initial efforts to patch Thomas up, and thought that he might have stood a chance had the wound not been plastered over, thus halting blood-flow. It seems unlikely. The

post mortem revealed a massive brain injury, a haematoma the size of a 'the longitudinal section of a turkey's egg'.⁴⁴

There was no doubt about the murder weapon. A flannel stocking, five feet long and eight and a half inches broad, doubled round a very large stone and sewn up each side was recovered from the stairs and the medical witnesses agreed that it was a blow from this that had caused the major injury. There were a few smaller injuries to his face and head, possibly caused by blows or a fall. The presence of such a weapon in the cells suggests lax prison discipline. Thomas had reported taking some similar ones away from prisoners the day before because although they were commonly used for pulling up water from the yard, some prisoners had been using them to ferry whisky! And the stone? A prisoner admitted supplying it at Davey's request to use with his tinderbox to light his pipe.⁴⁵

The cause of death and the identity of the murder weapon were never in doubt. But Thomas had been murdered on the stairs, out of sight. If there was any hope that Henry Cockburn could help his client with an alternative version this was it. The most innocent construction would be that one of the others in the cage killed Thomas and, as Cockburn would indeed argue, Haggart 'thought it a light crime to leave a jail when opportunity offered.'⁴⁶ How, then, could the evidence be reconfigured?

Perhaps Thomas knew who attacked him. There seemed to have been a short interlude of lucidity when Thomas was ambulant and able to talk. At trial, Margaret

⁴⁴ William was the doctor critical of the application of plasters to the wound, and he ordered them removed. NAS AD14/21/248, 15 and 23 May. Dr Blacklock, the surgeon who attended and later gave evidence in Haggart's trial, produced a highly professional and detailed account of the pathology of Thomas's wounds, *Ibid.* In addition to these two, John Laing, physician, attended and performed a trepan operation, physician Alex Melville attended and surgeon John Grierson was passing at the time and attended.

⁴⁵ Mary Gracie provided the information about the bags at precognition. Prisoner John Reid supplied the stone.

⁴⁶ As reported in the *Edinburgh Advertiser*, 12 June 1821.

Huddleston, a servant who saw Thomas before the doctors got there, gave evidence that, when asked what had happened, Thomas said, 'It was that Haggart.' John Grierson, a surgeon who was passing the jail at the time, recalled that Thomas was 'in a properly collected state' and, as best he could recall, told him that Davey Haggart had done him the injuries. Two prisoners confined to jail for debt, Alex Rae and John Jardine, added their testimony to the same effect. Cockburn dealt with this as best he could. He insisted that Thomas 'was not in a state of mind to give testimony to which any weight could attach and the words were dropt amidst a scene of great confusion, and in an hour and a half the deceased was completely insensible'. It is possible, too, that he was repeating what others told him. Robert Simpson, one of the three prisoners who was in the cage, but had not made his escape, had, according to witnesses, immediately shouted 'Murder! Murder! Haggart's out and has killed Thomas.' Mary Gracie had picked up the cry and shouted at the fleeing prisoner, 'Ah Haggart, you have killed our master.' Thomas's dying words were admissible but, given his medical condition, not conclusive evidence and Thomas was not there to speak to them.⁴⁷

John Dunbar was Cockburn's obvious choice as the murderer. 'Dunbar', he said, was the guilty person, who being under sentence of transportation at this time, had an inducement to plan and effect escape, which could not possibly be said of the prisoner.⁴⁸ Though Haggart was also a convicted prisoner, Thomas Maitland was hard at work, challenging the sufficiency of the jury's verdict in his case, and while the lawyers were still holding out hope of success, it might be argued that his client had less reason to escape than Dunbar. Was it not very convenient for the Crown, he

⁴⁷ NAS AD 14/21/248. Hearsay evidence was generally inadmissible, though an exception could be made where the speaker was deceased.

⁴⁸ *The Edinburgh Advertiser* 12 June 1821.

asked, that Dunbar was not in court to testify? Not only had the ship transporting him to the colonies already left, depriving the Court of the most important witness, but he had been allowed to leave the kingdom, Cockburn alleged, without even a witness statement having been taken at the precognition . In fact Cockburn was wrong. John Dunbar had been examined and made a declaration before the sheriff substitute, William Baillie, on 12 October, after he had been recaptured. In all probability it would not have been admissible, and he had every reason for wanting to establish his own innocence, since transportation was a good deal less lethal than hanging. Nothing Dunbar had said would have helped Davey Haggart in any way.

Dunbar was sixteen. Like Davey, he too led a nomadic life. He had been brought up by his grandfather, John Glendinning, in Thornhill, Dumfriesshire, after his mother abandoned him and married a sailor. He had been a cattle herder and cart driver for his grandfather until the summer of 1819 when he took up his pack and travelled the country selling hardware and attending country fairs. He and an older accomplice, Francis Lawrie, were arrested and indicted for theft in July 1820. They claimed that the stolen goods found on their persons had been purchased from Irish vagrants on their road to the hay harvest in England. Ironically this almost illiterate boy was charged with stealing, among other things, a volume of Alexander Pope's poetry and a biography, *'The Beauties of Sterne with some Account of his Life'*. Found guilty, he was in Dumfries' jail awaiting a ship to take him to New South Wales.⁴⁹ There he met Davey Haggart and shared the cage with him.

His version, given to the sheriff substitute on 12th October, two days after the events, began with Davey taking him into his confidence and telling him of his plan 'to knock

⁴⁹Information concerning his criminal past in NAS AD14/20/168, precognition against Francis Lawrie, John Dunbar, Jean Pollock for the crime of theft by housebreaking 1820.

down the underjailer and make his escape.' It was a good day to do it, he said, because the head jailor would be away for the afternoon. He showed him a flannel with a stone at the end of it, which he said he'd prepared for that purpose. John Dunbar agreed to escape with him, but warned him there was to be no violence. Davey instructed him to call the turnkey up on the pretext of letting the clergymen out. Meanwhile Davey went off to 'the necessary' carrying something in his hat. John Dunbar heard Thomas coming up the stairs, stopping at 'the necessary' and speaking to Davey as he approached the cage door, which he would have to close to gain access to McRory's cell. Dunbar heard a crash and ran out of the cage to see Davey holding Thomas down. He did not see any blows dealt.⁵⁰ He ran but was soon captured. On 12 April, a month before Davey's recapture, he sailed for New South Wales. His story, as told at precognition, would have been no help whatsoever to Cockburn, though who knows what the gifted advocate might have done with him on cross-examination. Cockburn's unfounded complaint that the prosecution had let him go without leaving a declaration was as close as he could get to planting a seed of doubt in the jury's mind. Clearly the procurator fiscal must have been satisfied that there was nothing to be gained from bringing a murder charge against Dunbar and let his transportation proceed. Perhaps he was lucky to be on the other side of the world when his cell mate was caught and brought to justice.

The only other witness to what happened that day outside 'the necessary' was Robert Simpson, the Crown's key witness and the defence's fragile, only hope. This young prisoner was in the cage on the morning of the 10 October. He was unquestionably innocent. He had never met the other two. He was to be released the next day. He did not even attempt an opportunistic bolt for freedom when the jail door lay open. In his

⁵⁰ NAS AD 14/20/248 12 October 1820.

declaration, John Dunbar confirmed that Simpson had nothing whatsoever to do with the escape. Seconds after the crash was heard, Robert had shouted the news that Thomas was dead and Haggart had done it. The two ministers who had been visiting McRory found him 'a good bit agitated', repeating this story and saying he was fearful he might be blamed. On 12 October 1820, while memories were fresh, Robert made his first declaration. It placed the blame quite squarely on Haggart. He had seen him putting something heavy under his hat and taking it to the necessary. Both he and Dunbar had still been in the cage when they heard Thomas coming up the stairs and saying something to Davey. Then there was a crashing noise, and the two of them rushed out to find Thomas lying on the stairs with Davey above him, raining blows on him, the bag with the stone in his hand. He was sure that Davey felt malice towards the jailer, having told another prisoner that he'd give him a thrashing. That very morning, he recalled, Davey had spied Thomas in the jail-yard and said, 'Ah, that bugger, he was wanting to get me put in irons'. He had never met either John Dunbar or David Haggart before. Haggart, he said, was in good spirits that morning 'and danced and sang in the cage'.⁵¹

If the prosecution could keep Robert Simpson on track with this evidence and have him confirm it at trial, they were home and dry. Events intervened, however. Robert was another nomad. In May 1821, when procurator fiscal William Thomson attempted to find him and bring him back to Dumfries for precognition, he discovered he was in jail in Newcastle. Thomson sought urgent help from the Crown Office to bring him back, expressing his fears that this 'absolutely necessary witness' had been tampered with. 'There is reason to suspect', he wrote to Crown agent Adam Rolland, 'that some of Haggart's accomplices may use means to keep him out of the way.'

⁵¹ Ibid. 12 October 1821.

Robert Simpson was duly returned to Dumfries, but the fiscal was a worried man. A further letter to the Crown Office on 21 May suggested that Robert could not be relied upon to stick to his initial account.⁵² Now that Dunbar was out of the way in Australia, Simpson seemed less anxious to blame Haggart, and more inclined to implicate the absent Dunbar.

There were grounds to believe that Robert Simpson was intimidated. His mother lived in Glasgow, in the Trongate, and one night she had a visitor. The story is taken up by Mr. Salmond, a procurator fiscal in Glasgow, who wrote to his counterpart in Dumfries, advising him to arrest anyone who came to visit Simpson in jail. He described the man, whose identity he thought he knew: 'He had on a black hat, long blue cloth coat, black silk handkerchief, other parts of his dress black, black visage, thin face, pretty tall, and had a cut or small pox mark on the right side of his chin.' Late at night he appeared at the door and asked Robert's mother if he intended giving evidence. The fiscal continued, 'He then said that if he went, "she and he might take care of themselves" meaning I suppose that some injury would be done them if he went there to give evidence.'⁵³ She was greatly alarmed. Robert was no less so. On 31 May William Thomson wrote again to the Crown Office. Robert had attempted to escape by climbing up a lead waterspout. Now under close confinement, he was 'very sulky and dissatisfied'.⁵⁴

At precognition on 21 May before sheriff substitute Baillie, he still maintained that he saw the murder weapon in Davey's hand. But whereas in October he had been very sure of what he knew, now he was less so. It was his 'impression' that Haggart struck

⁵² William Thomson to Adam Rolland, 7 and 21 May, 1821, NAS AD 14/21/248.

⁵³ Salmond to William Thomson and forwarded to the Crown Office, 25 May, 1821, NAS AD 14/21/248.

⁵⁴ William Thomson to Adam Rolland, 31 May, 1821, Ibid.

the blows. At trial in the High Court on 11 June his testimony became still less certain. He 'thinks the prisoner at the bar looks larger than Haggart'. When he reached Thomas on the stairs that day he saw both his cell mates, with one of them on top of the jailer, 'but he cannot say which, the door being half closed darkened the passage'. He agreed that he had run out shouting 'murder' but that he had only heard people in the courtyard say that Haggart did it. He did not himself name either Haggart or Dunbar. He was puzzled and confused at the time.⁵⁵

It was small wonder that this performance drew fire from advocate depute John Hope. Evidentiary rules did not preclude a witness from altering the version given at precognition, but this was abysmal. Mr. Hope moved to commit the witness for prevarication. The court agreed that this witness's testimony was unsatisfactory, but declined to go the lengths of the public prosecutor's motion. Hope did what he could with it. Summing up to the jury he told them that although Simpson had not told all he knew, nevertheless, 'what had been wrung from him became of the *greater* importance'. Looking at the evidence as a whole, there could be no reasonable doubt that David Haggart murdered Thomas Morrin.

This was a gift to Cockburn. The Crown's chief witness had fallen apart. Simpson's evidence cast doubt on who exactly struck Thomas Morrin, and pushed the door further open to that little doubt Cockburn had planted about the absent John Dunbar's part in all this. He appealed to the jury as only he could. It was, he said, the first time he had known a public prosecutor to find fault with a witness all the way through, threaten to commit him for prevarication and then turn round and say they must believe what he did say. The jury was not seduced on this occasion however, and

⁵⁵ *Edinburgh Advertiser*, report of trial, 12 June and *The Scotman*, 16 June on which the account that follows is based. There are only skeletal accounts of the trial in the Book of Adjournal NAS JC8/16.

declined to return the verdict of 'not proven' which Cockburn said the evidence demanded. The fifteen jurors did not even leave their seats to deliberate in private. 'Without retiring or hesitation' they unanimously found the prisoner guilty.

If the jury was not seduced by defence counsel's undoubted eloquence, Davey very nearly was. Perhaps he had been so pleasantly surprised by his advocate, Thomas Maitlands's efforts to get him off a year previously that he believed Cockburn capable of magic. Certainly he appeared to be quite confident before the trial. The phrenologist, George Combe, visited him in jail on 29 May. His notebook records the interview: 'He appeared quite indifferent to his crimes; spoke of his chances of escape at his trial as still considerable.'⁵⁶ According to newspaper accounts of the trial, he continued his air of unconcern, leaning back in his seat, eating confections. According to one version of his life, he had good hopes until the judge began to speak and he realised that 'his speaking was sore against him'. Even then he did not despair when he saw the jurymen talking together, but when they pronounced him guilty 'his very heart broke.' One witness, he alleged, had let him down and not said what he should, that he knew of their plan to escape, but that they intended poor Thomas no harm.⁵⁷ But he conceded that it would not have changed anything, since 'I was fully as wicked as they made me.'⁵⁸

Cockburn was at his brilliant best in addressing the jury. He was not always greatly interested in technical matters, but looking at the evidence it is hard to imagine a more creative defence strategy. Davey himself seemed to acknowledge that in Scotland he had received a fairer measure of justice than he might have elsewhere. He reflected

⁵⁶ NLS George Combe MSS, *Notebook*, 29 May, MS 7407 p113.

⁵⁷ *The Singular Life, Adventures, and Depredations of David Haggart the Murderer*, (Newcastle: W & J Fordyce c. 1830) pp.20-21.

⁵⁸ Haggart, *Life*, p.147.

that he had twice been on trial for his life in Scotland and 'the first time I got more than justice, for I was acquitted. The second time I got justice, for I was convicted.'⁵⁹ By contrast, when he appeared in court in Ireland, he thought he had got no justice and he was quite clear about the reasons. He had nobody to speak for him. Only the judge spoke and he was against him.

Scots criminal law and procedure were not perfect but they afforded some important protections to the accused. There was a greater insistence than anywhere else in the kingdom on corroboration; there were stricter rules against double jeopardy than in England; there were rules preventing lengthy incarceration without trial; there was an independent public prosecutor; the accused was furnished with the indictment and a list of the potential jurors and the prosecution witnesses fifteen days before trial to enable challenges to be made; the defence had the same assistance as the prosecution to compel the attendance of witnesses.⁶⁰ Hume's *Commentaries* was a toolbox, but only of use if a man was well represented. Perhaps it is difficult to say of a man condemned to be hanged that he was fortunate to be the beneficiary of Scottish justice. He was fortunate that Cockburn, Maitland and Robertson waived their fees and worked hard to defend him, not once but twice. He was fortunate to have a full bench of judges of the calibre of those on the High Court of Justiciary, who worried and divided over his challenge to his previous verdict for theft, even if they ultimately had to sentence him to die. His main problem was that he was guilty!

There were of course lots of other things about Scots criminal justice which were not ideal, principally with respect to the selection of the jury. Henry Cockburn

⁵⁹ Haggart, *Life*, p.138. By acquittal he presumably refers to the 'not proven' verdict on housebreaking and the disputed verdict on theft in July 1820.

⁶⁰ It was not all good news, however. The accused could not give evidence even if it would be in his interest to do so and his previous convictions were made known to the jury before trial.

campaigned vigorously for reform of the procedures. The names of men qualified to serve as jurors were collected, supposedly on an annual basis by the sheriffs. There was no security, however, that the list contained all such names. The clerk of the High Court would choose forty-five names from this list. The final choice of fifteen jurors was made by the presiding judge. Cockburn was highly critical. He did not imply that judges would act in a consciously corrupt way but, their motives could be 'buried impenetrably in his own breast.' In a small country like Scotland, he wrote, it was not difficult for those conversant with these matters 'to have a particular impression of the character, principles and habits of nearly every individual on the paper.'⁶¹ The judge's discretion was not easily challenged, even by a well represented accused. In theory any juror could be challenged for cause, that is if the accused could show that he was an outlaw, deaf or dumb, insane or possessed of malice towards him. In practice the difficulties of proof were such that such challenges were rare. In England, but not in Scotland it was possible to guard against 'packed' juries because the accused had peremptory challenges, so that a particular juror could be challenged without showing cause. Cockburn had experienced some of the worst features of the system when he defended the accused in the sedition trials of the 1790s and he campaigned for change. Jurors, he argued, should be chosen from the list by ballot and the accused should have the right to make a number of peremptory challenges. The law was reformed in 1825 to this end.⁶² There is no reason to suppose that Haggart's fate would have been different at the hands of a reformed jury. All that can be said of his jury was that it was composed of fifteen men who met the property qualification, and included a soap manufacturer, a merchant, a farmer, two

⁶¹ Henry Cockburn, *Observations on the Mode of Choosing Juries in Scotland*, (Edinburgh : Archibald Constable, 1827), previously published in the *Edinburgh Review* vol xxxvi (1821)p.71.

⁶² Jurors (Scotland) Act 1825, setting out the property qualifications for jurors and providing for selection of fifteen names from the forty-five of the assize by ballot. Each side was to be given five peremptory challenges.

haberdashers, an insurance broker and a jeweller. No challenges were made for cause. They were unanimous.

Haggart got as fair a trial as the times prescribed. A criminal trial in the 1820s fell far short of an adversarial contest in which there was an equality of arms between the crown and the accused. Davey's best asset was Cockburn. Without counsel, there was no means of accessing the procedures which, if known and ably utilised, could protect the accused and enable him to raise reasonable doubts about the prosecution's version. Even if the accused was furnished with an able advocate, it would be a very busy one with little time to prepare a case. Cockburn seduced juries, but often without anything with which to rebut the prosecution's case other than his wits. An innocent man could easily have hanged and probably did quite often.

Many years later Cockburn remembered Davey:

He was young, good looking, gay and amiable to the eye; but there never was a riper scoundrel, a most perfect and inveterate miscreant in all the darker walks of crime. Nevertheless his youth (about twenty-five) and his gentleness, joined to an open confession of sins, procured him considerable commiseration, particularly among the pious and the female.⁶³

For his part Davey seemed suitably grateful. He presented Cockburn with a copy of his *Life*, a self portrait which he drew in prison and a set of verses of his own composition, 'which he desired to give to me in token of my exertions at his trial.'⁶⁴

The curious thing was this. Twice, at his precognitions in May, Davey told the examining magistrate that he could neither read nor write. The *Evening Advertiser* ended its report of his trial by moralising on this 'sad example of the want of education, as we learned from his declaration that he cannot write'. Four weeks later

⁶³ Cockburn, *Circuit Journeys*, p.211.

⁶⁴ *Ibid.*

his autobiography was for sale. Its claim was that it was written in part by Haggart and in part dictated by him. Did he write any of it? His insistence that he could not write might simply have been part of his strategic non-cooperation with the prosecution. The person who was closest to Davey in the enterprise of publishing his *Life* and would know the answer was also one of the lawyers who had worked for his defence. George Robertson was the Writer to the Signet who had instructed defence advocate Thomas Maitland in Davey's first trial in the High Court in 1820 and Cockburn the following year. He now took on the task of seeing the *Life* through to publication, a task which he said he undertook reluctantly, at Davey's request. He was the link between the stories told in the High Court and Davey's own story told in the condemned cell. The version of events on which the Court agreed was, by the nature of the trial process itself, cobbled together from the various accounts of witnesses, and the jury's judgment on their credibility. The one story they had not heard was David Haggart's.

CHAPTER TWO

DAVID'S VERSION :THE ART AND PART OF CRIMINAL BIOGRAPHY

In the first half of the nineteenth century, the reading and writing of 'lives' became a craze of the age. Literacy rates improved, the price of books dropped and circulating libraries multiplied. Ordinary people read in greater numbers and they also began to write. Publishers responded and it seemed that 'as the uneducated turned to print, the educated began to create a market for their writings.'¹ The quality was uneven and one writer in the *Quarterly Review* observed dryly in 1826, 'England expects every driveller to do his memorabilia.'² Ordinary soldiers as well as generals thought their lives during the Napoleonic Wars interesting enough to write about. The 'labouring classes' burst into print. Good Christians used the example of their lives to inspire others to imitation. At least one beggar wrote an engaging, often moving account of his early life as a wandering vagrant. Even 'Hawkie', a familiar face around Scotland as he peddled his broadsides and chapbooks produced a *life*. There was a market both for the exemplary biography and for tales of low life. The great and the good continued to publish their 'memorabilia' but these were no longer alone on the booksellers' shelves. It was remarkable how many people whose paths crossed David Haggart's wrote about their lives and times. His advocate, Henry Cockburn, penned the best known of these. George Combe, the phrenologist who came to his cell to measure his head, began writing his autobiography but completed just a fragment of it

¹ John Burnett, David Vincent and David Mayall, eds., *The Autobiography of the Working Class* 2 vols.(London: Harvester, 1984-86) vol.1 p.xv.

² Quoted *Ibid*. A similar point was made by Charles Whitehead in *The Autobiography of Jack Ketch* (London: Clinton, 1835) p.1: 'The present is a literary generation: But it is an age of writers, not of readers. We learn to write before we have been taught to read.'

before he died. George Borrow, a philologist who met Davey as a boy and had a scholarly interest in the criminal slang he used, wrote a rather fanciful account of scenes from his life. Young David Haggart wrote his *Life* for a brisk market.³

There had, of course, always been a brisk market for criminal *lives*. The eighteenth century produced a remarkable amount of such publications, with 'gallows confessions' attracting a wide readership. Until recently this literature was largely neglected by scholars and it still is in Scotland. Frank Wadleigh Chandler offered some reasons for past neglect:

Intrinsically they are of small artistic value; as allied with journalism they are largely and fortunately ephemeral; as catering to the vulgar instincts of the vulgar many, they fall below the dignified historian's horizon line; and, further, they are so widely scattered as to be reassembled for purposes of study only at a cost of pains and patience out of all proportion to their apparent merit. Nevertheless, they have exerted no inconsiderable influence in the shaping of modern fiction. They have been source books of realism, and their narrative method has instructed great story-tellers.⁴

Philip Rawlings estimates that in eighteenth century England there were between two and three thousand published 'criminal biographies'.⁵ Most of these were the ephemera of gallows literature, cheap broadsides that brought sensational accounts of crimes, trials, prison escapes and hangings to a street audience. In volume and popularity these reached a peak in both England and Scotland in the second quarter of

³ Burn, *Autobiography of a Beggar Boy*; Anon., *The Autobiography of a Soldier. By a Native of Kilmarnock* (Kilmarnock: Patterson, 1829); John Younger, *Autobiography of John Younger, Shoemaker, St. Boswells* (St Boswell: Rutherford, 1881); William Cameron, *Hawkie: The Autobiography of a Gangrel* ed. by John Strathesk (Glasgow: David Robertson, 1888); Henry Cockburn, *Memorials of his Time* (first published 1856, Edinburgh: Mercat, 1988); Charles Gibbon, *The Life of George Combe* 2 vols (London: Macmillan, 1878); George Borrow, *Lavengro* 3 vols. (London: John Murray, 1851).

⁴ Frank Wadleigh Chandler, *The Literature of Roguery* 2 vols. (London: 1907) vol.1 p.181.

⁵ Rawlings, *Drunks, Whores and Idle Apprentices* p.2. Recent scholarship has mined English criminal biography to good effect. See especially, Lincoln Faller, *Turned to Account: The Forms and Functions of Criminal Biography in Late Seventeenth and Early Eighteenth-Century England* (Cambridge: Cambridge UP, 1987) and Hal Gladfelder, *Criminality and Narrative in Eighteenth Century England: Beyond the Law* (Baltimore: Johns Hopkins UP, 2001).

the nineteenth century.⁶ In Scotland there were fewer hangings but no lack of interest in the literature of 'wickedness'.

Amongst the deluge of confessions and potted '*lives*' there was another genre, the longer criminal biography which, at sixpence to a shilling was both more expensive and more expansive than the penny broadside, demanded more of the reader's literacy and served a different function. These were a more leisured read, part didactic and part entertainment. David Haggart's *Life* was long, at just over a hundred and fifty pages, and had antecedents in both English and Scottish criminal biography. This chapter is about how and why it was written and explores some of the conventions of criminal biography in the century preceding its publication as a preliminary to arguing that the book's angry reception in some quarters of Edinburgh and its great popularity in others reflects its importance as a turning point in the history of criminal literature.

The use of the terms 'biography' and 'autobiography' raise some difficult questions. Readers' expectations of biography include a certain distance and objectivity, usually brought to a life by an author who has researched or known his subject. It seems to promise that the subject's life will be reviewed in the context of his times and his overall reputation assessed by reference to all the available evidence. The reality may be very different. When a man tells his own story, however, we allow more room for subjectivity, even falsehood as the price of 'being on the inside', emotionally and intellectually. When 'I was born' becomes confused with 'once upon a time', a further line is crossed between autobiography and fiction, though it is not always a clear one. Novels are frequently autobiographical and autobiographies are frequently laced with

⁶ Leslie Shepard, *The History of Street Literature* (Newton Abbot: David & Charles, 1973) pp31-32.

fictions. Accounts of men and women awaiting the hangman often flit from one category to another. It is not always clear who wrote them and how much is 'true'. Then again, even when a 'ghostwriter' is suspected or identified, an account may still be an illiterate man's oral 'autobiography', dictated to someone who could write and might edit it. The term 'autobiography' only became familiar in England after 1809 when Robert Southey used it in the *Quarterly Review* and it may be supposed that 'Lives' were not so rigidly categorised at the time.⁷ For that reason the term 'criminal biography' is used here to include autobiography.

Questions of authorship and readership

David Haggart's *Life* was his own story, but how could this self-confessed illiterate man write it? The book's advert declares it to be a hybrid, part oral history, part written: 'This is a true account of my life partly written By myself and partly Taken down from my own lips while under Sentence of Death.' His claim to illiteracy need not be taken too literally. David may have had good reason for claiming that he could neither read nor write when he was judicially examined in May 1821 about the murder of Thomas Morrin. Interestingly he made no such claim the year before at a precognition into theft and housebreaking charges.⁸ At worst he suffered intermittent illiteracy! His account of his childhood included at least two periods of schooling, a record of trancies and a claim to having been the dux of his class. It would seem he

⁷ Elizabeth W. Bruss, *Autobiographical Acts: The Changing Situation of a Literary Genre* (Baltimore: Johns Hopkins UP, 1976) p.7.

⁸ NAS AD 14/20/122 (1820) Haggart and Forrest's precognition was very long, and although David made no mention of his part in the alleged crime he did speak about his childhood and early days in a form very like his *Life*.

was functionally literate, though not a man of letters.⁹ Alan Massie found his style ‘engaging’. Charles Whibley praised his ‘unvarnished sentences’ and accepted the book’s ‘rough lingo’ or use of ‘cant’ language as evidence of its freshness and authenticity, noting that ‘he packs his pages with ill-spelt slang, telling his story of thieving in the true language of thieves’. Cant was the secret language supposedly used by thieves to conduct their affairs in the confidence that law-abiding people would not understand what they were talking about. Even the sternest critic of Haggart’s *Life* agreed that the language was what one would expect from a young man with his criminal history:

When we consider who was the author...it was almost impossible for him to describe such villainous actions, without, in many instances, having recourse to the language of those who follow such employment; or, in fact, to the language which he himself used when he committed those crimes.¹⁰

Readers of eighteenth century English criminal biographies would be familiar with many canting terms. James Maclean, the gentleman highwayman, ‘Sixteen String’ Jack Rann, the ‘thieftaker’ Jonathan Wild and the talented prison escapist Jack Sheppard were only a few of the characters who had peppered their best-selling lives with a criminal patois that was marketed as a secret and authentic language. It had gained still greater currency and popularity when it reached the stage in John Gay’s *Beggar’s Opera*, first performed in 1728. Captain Heath was based on Jack Sheppard and Mr. Peachum on Jonathan Wild. The sixty nine songs of this wonderfully subversive musical satire were sung throughout the land and its cast of tricksters,

⁹ Haggart, *Life* p.3. By his own account, when he left school he could ‘read well and write tolerably.’ According to a broadside stories of his illiteracy were incorrect, ‘as he could both read and write extremely well.’ *The Full Account of the Execution of David Haggart* (Edinburgh:1821) NLS LC74(57)

¹⁰ Massie, *Ill Met by Gaslight* p.18, Charles Whibley, *A Book of Scoundrels* (London: Heinemann, 1897) p.231, Anon., *Animadversions on a Book Lately Published Entitled the Life of David Haggart* (Edinburgh:A.Jack, 1821) p.34.

fences, thieves and prostitutes entered and remained in popular culture.¹¹ It was a runaway success. Villains were popular and so was their colourful language. Quite how it was considered a 'secret' language is hard to square with its exposure in song and story.

It seems likely that David Haggart's liberal use of cant in his *Life* was not just something he could not help doing because he was a criminal. It was a marketing strategy. Somebody took a deliberate decision to keep the slang in and make a feature of it by including a glossary. By contrast, David's English was scrubbed clean of misspellings and grammatical errors. The result is sometimes a disconcerting amalgam of canting slang and stilted English, as when he writes of his early difficulties in resetting stolen goods:

Owing to my want of knowledge of the flash kanes [houses for receiving stolen goods], where I might fence my snib'd lays[pick-pocketed goods]; therefore my attentions were entirely confined to blunt [money].¹²

Whole paragraphs proceed in strained 'Sunday best' English followed by some which are incomprehensible without the accompanying glossary. Though the *Life* makes great use of criminal vernacular, its only use of ordinary Scots is when the author attempts to convey, in reported speech, the unfamiliar accents of the Aberdonian policemen Davey meets in a drinking den or the rough speech of labouring folk whom he overhears discussing the news that Thomas Morrin is dead.¹³ Without a doubt the *Life* reflects both the sound of a man talking and the work of an editor straining to put

¹¹ John Gay, *The Beggars' Opera*, 3rd ed. (London: J. Waters, 1729). It remained popular throughout the nineteenth century and the twentieth century adaptations by Weill and Brecht, Duke Ellington and Benjamin Britten were also successful.

¹² Haggart, *Life* pp.7-8

¹³ Ibid., p.63, 'Far de ye a' belong te; said he; 'ye dinna belang te this town.' And p.92, on telling of David's part in the murder, 'he's the awfu'st chield ever was....am sure I wish he may keep awa'-it will no bring back the man's life, and I ken his father.' This use of Scots dialect in the mouth of the common Scot is no different from that made by Scott and Hogg, but it makes the apparently spoken cant mixed with standard *written* English seem artificial.

everything except the cant into polite, though not polished English. Charles Whibley was wrong, then, when he praised Haggart's 'unvarnished sentences'. They were well varnished with what, it was hoped, would help sell the book—the secret language of criminals. But who sat with Davey as he spoke? Who wrote the glossary? Which bits did he write? Whose idea was it to make a feature of cant? Whoever he was, he did more than make 'such trifling alterations as were necessary to render the Narrative intelligible' as the advert to the book claims. The more important, but unanswerable question is the extent to which the work of other hands in the production of the *Life* influenced the content as well as the style.

Mysteries about authorship abound in criminal 'lives'. Though most were marketed as 'written by himself' or 'taken from his own mouth', few were. Clergymen frequently wrote them, quite openly so in the case of the Newgate Accounts, which began in London in 1712 as a single sheet and grew to occupy a multi-page format. These grew out of the relentless pursuit of confession and redemption, though baser, commercial motives were later attributed to their authors.¹⁴ There was no suggestion that any of the numerous clergymen who visited David Haggart encouraged or conspired in his literary efforts. Even the anonymous writer of the *Animadversions* against David's *Life* thundered against the clergy's failure to warn the young author against writing it but expressed no suspicion that any might have compiled a sentence or put pen to paper.

Though George Robertson seems the likeliest pair of hands, none of his contemporaries or later writers on the subject of authorship accused him of anything

¹⁴ On the Newgate Accounts, see Rawlings, *Drunks, Whores and Apprentices* Ch. I. Dr. John Allen was dismissed in 1720, accused of extorting money from prisoners. It was a charge levelled at others, who were referred to in derogatory terms like 'the careful Retailer of Dying Speeches.'

more than an administrative role in preparing David's manuscript for the publisher when requested to do so by his client. 'There is no suggestion that he or any other educated man had a hand in writing it', wrote Alan Massie.¹⁵ The most convincing evidence that Robertson wrote none of it was, according to another writer, that 'the 'worthy signet' who prepared the work for the Press would have asked three times the space to record one-half the adventure'.¹⁶ He was, it seems, too dull and verbose to have written it. Robertson himself acknowledged his role in 'preparing' the work for publication, a task he undertook reluctantly but in sympathy with the project of raising money for the youth's father and his family. The little advert that he wrote for the book reveals his protectiveness towards his young client, as he asks the reader for forbearance of his youthful thoughtlessness. 'Any levity of expression, in the course of the Narrative, may be readily excused' he wrote, because it would be impossible to record the events faithfully 'without recurring to the language of the past.'¹⁷ He assured the reader that, contrary to appearances, David was sincerely penitent. In truth the reader would find no evidence of that in the text. Arguably, however, if he did have a hand in the style and content, George Robertson's demonstrated kindness towards the youth might have ensured that David's exuberant pride in his criminal acts was toned down. He would surely have edited with the eye of the Edinburgh lawyer, the 'Christian and gentleman' that he was widely thought to personify.¹⁸

Robertson undoubtedly helped Davey with his *Life* and helped in the process of making it intelligible. Everything else is a matter of conjecture, but there is no evidence that he influenced the content, and from what is known of his style and

¹⁵ Massie, *Ill Met by Gaslight* p.17.

¹⁶ Whibley, *A Book of Scoundrels* p.213.

¹⁷ Haggart, *Life* p.vii.

¹⁸ The view of his character expressed by the anonymous author of the *Animadversions* p.10.

character it seems unlikely that he did. In this he was more restrained than a more famous lawyer who slipped across the line between helping a prisoner to write his *life* and doing it himself. James Boswell had a strange fascination for executions and attended them eagerly. Though he became famous as a giant among literary biographers for his life of Samuel Johnson, critics have not been so kind to his skills as an advocate and as one wrote, 'His curious taste for executions was his only genuine legal enthusiasm.'¹⁹ John Reid was his first client in a criminal case and although Boswell secured an acquittal for him on a charge of sheep-stealing, he was unable to repeat the success a few years later in 1774 for a similar offence. Reid was sentenced to hang and was taken down to the cells. Boswell, despite failure, enjoyed a kind of euphoria, and, 'elated with the admirable appearance which I had made in the court' he went off drinking with the jurors.²⁰ It was not that he was indifferent to Reid's fate. Over the weeks that followed he worked manically to save Reid's life, and if that failed, his soul. He was a constant visitor to the Iron Room, spending hours there getting his overcoat infested with vermin, badgering Reid to tell him the real truth, and talking to him endlessly about the realities of hanging and damnation. He secured the services of an artist, Keith Ralph, to sketch Reid contemplating these things. He also talked to him about writing his life. 'I desired John to write his life very fully, which he promised to do', Boswell entered in his diary, 'It will be a curious thing if he gives a narrative of his life.'²¹ The diary also reveals that after sharing a bottle of port with a friend 'a curious thought struck me that I would write

¹⁹ T.B. Simpson, 'Boswell as an Advocate', *Juridical Review* 34 (1922) p.225.

²⁰ Boswell, James, *Boswell for the Defence, 1769-1774* ed. by William K. Wimsatt and Frederick J.Pottle, (London: William Heinemann, 1960)p.264, Monday 1 August 1774. Such intimacies between counsel and jury were not thought inappropriate. Boswell's father, Lord Auchinleck, was on the bench in this case.

²¹ *Boswell for the Defence* p.276, Wed. 10 August 1774. His journals contain some interesting insights into the production of gallows lives by others. In discussions he had with a lay preacher, Ritchie, about writing Reid's life, it emerged that Ritchie was also a published author of a *Life of William Pickworth*. The turnkey, Richard Lock, was also involved in turning out lives. Boswell was probably planning a fuller collection and refers to his keeping a *Register of Trials*, though it did not survive in his papers.

the case of John Reid as if dictated by himself on this the day fixed for his execution. I accordingly did it, and hit off very well the thoughts and style of what such a case would have been.²² At the same time he was still working hard to get a pardon for his client and, if this failed, he would resort to a bizarre contingency plan to cut him down from the gallows and hurry him off to a safe-house for an attempt at resuscitation. In the end, Reid was well and truly hanged and all that was left of Boswell's creative energies was his narrative, *The Mournful case of Poor Unfortunate and Unhappy John Reid*.

Of course this brief narrative gave no hint of the talents which would produce the *Life of Johnson* but it reveals something about the nature of criminal biography. Reid's life was marketed as 'in his own words' and in a sense it was not a dishonest claim, though Reid himself was annoyed about it.²³ Boswell had ingested Reid. Of this experience he wrote, 'I had by sympathy sucked the dismal ideas of John Reid's situation'.²⁴ Boswell's obsession with the man had something to do with his recognition of what they had in common as transgressors of society's rules, one a sheep-stealer, the other a rake. As Boswell said of Reid, he was 'That other I'. As one scholar said of Boswell, 'the lawyer shared moral space with the criminal'.²⁵ Though Boswell's ability to ingest another person emotionally and imaginatively was unique, the telling of a story and the 'writing up' of it merge the first person with the third. Criminal 'lives' frequently occupied a tangled space between biography and autobiography.

²² *The Mournful Case of Poor Unfortunate and Unhappy John Reid*, *Ibid.*, September 1774 at p.321.

²³ *Ibid.*, p. 332 (14 September 1774).

²⁴ *Ibid.*, p.300, (30 August 1774).

²⁵ Gordon W. Turnbull, *Generous Attachment: Filiation and Rogue Biography in the Journals of James Boswell*, (Ann Arbor: University Microfilms International, 1987) p.61 and quoting Boswell, p.71.

It is this space in which David Haggart's story took form, in which his memories of events were selected and spoken aloud, prompted by his visitors perhaps rather than remembered in solitude, and fashioned into written prose by a combination of his own efforts, and those who kept him company in the last days. In all probability, David's *Life* would have been assembled as though by a committee. There would have been many visitors who had the opportunity to bring pen and paper with them to the condemned cell, including turnkeys who spent hours in the company of prisoners and were known to supplement their income by either writing *lives* or introducing others who would.²⁶ Peter Bunkle and James Waldie were Davey's turnkeys and he left them a guinea each from sales of the book, but we know nothing of what, if any part they played in its journey from Davey's head to the publishers.

Condemned prisoners were often sought out by writers and publishers anxious for exclusive rights to the story and turnkeys were sometimes 'go-betweens'.²⁷ There was money to be made from the literature of crime. The interests of the publishing and printing companies further complicate the search for understanding the motives and identity of the 'authors' of criminal biography. Whilst condemned prisoners themselves may have wanted to tell their stories for a mixture of worldly and spiritual reasons, the sole interest of the publisher was to sell them, and they may have pressed for the inclusion of some features that would help promote sales, including the

²⁶ Boswell recorded in his diary that a lay preacher by the name of Ritchie put pressure on John Reid to write his last words because it was 'a perquisite for Richard (Lock, the turnkey) who had a great deal of trouble.' *Boswell for the Defence*, p. 300. James Mackaen, hanged in Glasgow in 1797 was caught in a battle for his story between rival publishers and wrote to the magistrates of Glasgow asking them to use their influence to stop an Edinburgh version from circulating. It was one he regretted, having been 'continually tormented by the turnkey and others.' James Mackaen, *Life of James Mackaen*, 3rd ed. (Glasgow: Brath & Reid, 1797).

²⁷ One well documented example was that of James Aitken, or 'John the Painter', a Scot hanged in London in 1777 for setting fire to naval dockyards. He was approached by a Mr Lawrence, a lawyer turned writer who gave him an advance for his story. Jessica Warner, *John the Painter: The First Modern Terrorist* (London: Profile, 2005) p.185.

promise of special insights, unbelievable escapades or moral example. Access to the secret language of thieves could have been a selling point.

David Haggart's *Life* was printed by James Ballantyne for W & C Tait. Just as no record survives of conversations between author and editor about such matters as the preparation of the glossary, no correspondence survives between the publisher and the author's agent, George Robertson. 'Tait's was a respectable Princes Street firm and not given to sensational publications. In addition to young David Haggart its stable of authors included luminaries like Edinburgh philosopher Thomas Brown. It was also, however, branching out into autobiographies of humble people and had enjoyed good reviews for *The Journal of a Soldier of the 71st or Glasgow Regiment from 1806-1815*, which had been described as a 'beautiful illustration of the Scots character'.²⁸ In the absence of direct evidence of the marketing strategy of this solid, liberal-leaning Edinburgh firm, the advertisement for Haggart's *Life*, written of course by George Robertson, may reveal what it thought were its selling points.

Disclosure of criminal techniques was promised. The author wanted to atone 'in some degree' for his crimes by telling all. It was a familiar but not very plausible rationale. The idea was that respectable folks would be able to take preventive measures if they were initiated into the many ploys and techniques of footpads and pickpockets. One of the longer English biographies, *The Life, Travels, Exploits, Frauds and Robberies of Charles Speckman*, who was hanged in 1763, contained 'Several Maxims, Hints, and Remarks, by Way of Caution to the Public, to prevent or

²⁸ W & C Tait, *Catalogues* (Edinburgh: 1821), National Library of Scotland. William Tait went on to publish *Tait's Edinburgh Magazine*.

detect the Designs of Sharpers and Thieves from being carried into Execution'.²⁹

There followed a sensible checklist of what to look out for, and a little insider 'know-how'. The advice was sometimes a little self-explanatory, like 'watchmakers should be extremely careful of strangers in their shops'. David Haggart was less convincing as a crime prevention publicist, however. The *Life* contains many technical lessons on how to pick a pocket, but they are recounted with such relish that they appear to be much more use as an instruction manual for the novice thief than armour for the unwary citizen:

Picking the suck [breast pocket] is sometimes a kittle [difficult] job. If the coat is buttoned, it must be opened by slipping past. Then bring the lil [pocket book] down between the flap of the coat and the body, keeping your spare arm across your man's breast, and so slip it to a comrade; then abuse the fellow for jostling you.³⁰

The advert admitted a commercial motive too, but not one ostensibly to benefit an author who was scheduled to die before the book was published. He wanted the proceeds from sales of the book to be used for the good of his father and the education of his younger brothers and sister. A small donation was to be made to the school that 'some worthy Christians' had recently set up in the jail. Two turnkeys, James Waldie and Peter Bunkle were to receive a guinea each.³¹ The *Scots Magazine*'s reviewer of the *Life* would have preferred if a sum had been raised from the public's generosity, a common practice among execution crowds, rather than 'endangering the morality of its poor'.³² The anonymous author of the *Animadversions* thought that any money

²⁹ Full text reprinted in Rawlings, *Drunks, Whores and Idle Apprentices* p.185.

³⁰ Haggart, *Life* p.17. Later, at p.74, there is a little advice on precautions against housebreaking through the small window above the door, a technique he thought he had pioneered but was now 'common.'

³¹ *Ibid.*, p.154

³² *The Scots Magazine*, August 1821.

raised in such a way was contaminated. 'Alas!' he lamented, 'from a fountain so corrupt, can any man expect a pure stream?'³³

There was no attempt to dress the work up as an example to the young. Exemplary biographies and autobiographies were coming into vogue and would come to dominate the market in the second quarter of the nineteenth century. Dying children, devout women and even wise domestic pets were their subjects.³⁴ Even a bad man's life could be educational, a 'beacon, to warn of snares and vice', wrote the author of *The Awful Progress of Vice, Exemplified in a Brief Narrative of the Life of David Haggart*.³⁵ This was an abridged version of the *Life*, published just a few weeks later in 1821. The author had expected more of Haggart, because autobiography offered special insight and 'instruction becomes more forcible if it be imparted by an individual himself, as we are then led farther into the secret springs of action.' Admitting that it was a remarkable story, however, he retold it in the more objective viewpoint of the third person, and supplied all the moral lessons which David forgot to include. Thus the usual evils--- bad company, easy money and Sabbath-breaking--- were written in. It was the book David Haggart *should* have written.

He was not, then, motivated to look back on his life and make sense of it in remorseful reflection. Once, when he was ill for four weeks, he did suffer feelings of remorse. 'I really thought I was to be cut off in the midst of my wickedness, to give an account of all my crimes, for which I was very unprepared.' He was 'without hope'

³³ *Animadversions* p.6.

³⁴ Joseph Reed, *English Biography in the Early Nineteenth Century, 1801-1838* (New Haven: Yale University Press, 1966) Ch.2. Exemplary working class autobiographies are discussed in John Burnett, David Vincent and David Myall, eds., *The Autobiography of the Working Class: an Annotated Bibliography* (London: Harvester, 1984-1989) vol.4.

³⁵ Anon., *The Awful Progress of Vice, Exemplified in a Brief narrative of the Life of David Haggart* (Oxford: Hinton, 1821) p.1

and 'had no words for prayer.'³⁶ This transient moment passed. He recovered and, when he did, 'thoughts of repentance soon left my mind'. In the final weeks of his life, when he returned to Dumfries jail after capture in Ireland, he walked past the spot where he had killed Thomas Morrin and 'oh! it was like a fire under my feet'.³⁷ Fear of immediate consequences was his only contact with conscience. There was not much in his *Life* from which to draw an example to frighten or enlighten anyone into keeping to the straight and narrow path. If he had a theory of criminality it was fate. There was no point in remorse when your hand had been dealt at birth. 'The man that is born to be hanged, will not be drowned,' he philosophised when the jury returned its guilty verdict.³⁸

He did not reflect much at all on how he came to be where he was. There was certainly no thought in his head of blaming his parents and in a little poem said to have been written by him, he says 'For my mother and father were not to blame,/ And I brought my parents to grief and shame.'³⁹ In criminal biographies it was something of a cliché to be born of poor but honest parents and never to mention them again. David's *Life* hints at a more prolonged family effort to stop disaster. His mother, but more especially his father is an important presence in the book, and the reader can almost sense the parents wringing their hands with worry as their son drifted into delinquency. The account of this broadside writer reaches across centuries of parental *angst* :

³⁶ Haggart, *Life* p.42.

³⁷ *Ibid.*, p.148

³⁸ *Ibid.*, pp.148-9.

³⁹ *Ibid.*, p.150.

In his youth he was extremely tricky and forward, but at the same time had a humane disposition. His parents endeavoured to check him as far as it lay in their power, and kept him at school as much as possible.⁴⁰ David tells of how he first ran away from home aged ten after some 'trifling accident', out of 'fear of punishment by my father.'⁴¹ He did go home, however, and it was his father who made him go back for a second spell of school. Returning home after spells of theft and jail became a pattern and he seems to have behaved better during these interludes. In December 1818 two uncles stood as cautioners for his good behaviour and secured his release from Calton jail. He went home to be 'received kindly' by his father. David was adept at pulling the wool over their eyes, however, and 'neither he nor my mother could believe my project, I put such a good face upon them.' On the same occasion, it seems that his father attempted to impose what today is called 'grounding'. David had been out on a nocturnal theft which the police came round to speak to him about. A sister who was 'indulgent' to him backed up his alibi and said he was in bed, 'to prevent reflections from my father, for being out contrary to his orders.'⁴² At some stage during David's late teenage years, his mother died, 'of a broken heart'.⁴³

The historical record yields one more insight into this family. On 18 March 1826 David's brother John appeared at the High Court in Edinburgh charged with theft. His lawyer, James Brown, appealed to the jury not to be influenced by the reputation of his late notorious brother. In a sad twist of fate, John was the brother who was one of the beneficiaries from the profits of the *Life*. He listened as his lawyer attributed the blackening of the family name to this publication, 'as infamous as any that had ever

⁴⁰ *The Full Account of the Execution of David Haggart* (Edinburgh: 1821), NLS Broadside L.C.74(57).

⁴¹ *Ibid.*, p.3

⁴² *Ibid.*, pp. 45-46.

⁴³ *Ibid.*, p.148.

issued from the public press of this country.’⁴⁴ Found guilty, he was banished for life. One son sliding into crime could have been an aberration but two raise at least the possibility of a family pathology. Fear of an authoritarian father, unresolved grief for a mother---but of course there is a danger of imposing more dysfunction than the evidence allows. In the last hours, his father visited him in jail, and it was for his father’s financial benefit that he directed profits from his *Life*.

Though the book’s advert promised ‘disclosure’ it did not make confession its main attraction. To some extent all autobiography has an element of confession. It is a human need to unburden guilt by telling someone ‘the truth’ and just as strong a human need to hear it. Both church and state had their own needs. Convicted criminals awaiting execution were routinely and often forcefully encouraged to tell their story as a necessary step to forgiveness in the next world, but it was not uncommon for prisoners to seek a more tangible benefit. If there was the slightest hope of a pardon, a confession might help by informing on accomplices or clearing-up unsolved crimes. One of the most important and best-selling criminal biographies in eighteenth century England, John Poulter’s *Discoveries* had been written at least in part to secure favour with the authorities by giving lots of details about previous crimes and accomplices, information which might have led to further arrests.⁴⁵ Haggart, however, had nothing to offer the authorities and nothing to gain. The High Court had made it quite clear that there was no question of reprieve for him. The *Life* by no means compromised his associates, for although there were dates and details, they were of no great importance and most of the characters had either been

⁴⁴ *A Complete List of the Names, Crimes and Punishments, of all the Criminal Trials at Edinburgh before the High Court of Justiciary, this day ending 18 March, 1826* (Edinburgh: 1826) NLS Broadside J.C. (80).

⁴⁵ John Poulter, *The Discoveries of John Poulter* (1753) is reprinted in Rawlings, *Drunks, Whores and Idle Apprentices* p.147

transported, hanged or about to be hanged.⁴⁶ He was unencumbered by the possibility that his confession might be a bargaining tool, just as he appeared most of the time to be sceptical about the value of remorse to his soul.

The confessional aspect of his *Life*, therefore, so routinely a publisher's best asset, occupies only a little space. It does not seem to be the central purpose of the tale. He was guilty, he said, as charged. His own version of the circumstances leading to Thomas Morrin's death, however, differed in many details from that told to the Court by the prosecution. He claimed that he planned his escape from the day he arrived in jail and intended it to be a spectacular breakout, for it would be 'a fine thing to make a clean sweep of the quod[jail]'. The condemned man, Edward M'Rory, whose soup was left splattered on the stairs where Thomas Morrin was struck down, was to be sprung too. But David's plans were taken over by a prisoner called Laurie, who was awaiting transportation and invited others to escape by hitting the jailor over the head and taking his keys. The idea of getting the stone to use as a weapon was Laurie's. David protested that there must be no violence and that he had a better way, which involved merely gagging Thomas Morrin one day when the head-jailor Hunter was out. As things turned out, he admitted, he did strike the fatal blow, but he did not intend to kill poor Thomas. In this version, young Robert Simpson was not as innocent as he claimed, and added some blows himself.⁴⁷

⁴⁶ He had always been mindful not to 'grass' on others and said so in his precognition in 1820 when he faced a theft charge with William Forrest. NAS AD 14/20/122 (1820). Barney Maguire was transported but escaped en route. He was hanged in June 1830, *Execution: A Full and Particular Account of the Execution of Barney M'Guire* (1830) NLS Broadside Ry.iii.(a)2(98); Mary McKinnon, with whom he consorted was hanged 16 April 1823. *An Account of the Life and Transactions of Mary McKinnon* (Glasgow: John Muir, 1823) Murray Collection, University of Glasgow Special Collections, Mu1-xii/152.

⁴⁷ Haggart, *Life* pp.83-90. Even 'if I should never get my liberty, I would not strike the sergeant for it, because I thought I could do the job in an easier way' (p85) Haggart's own version was seldom challenged and found its way down to Massie, *Ill Met by Gaslight* p.31.

There is no mention of the involvement of Laurie in any of the precognitions, and none of it had reached the ears of his defence advocate Cockburn, who described the *Life* as a ‘tissue of absolute lies.’⁴⁸ David certainly wanted the death of Thomas Morrin to appear accidental and to this end he also recast Robert Simpson as someone who ought to have told the court that he knew how opposed to violence he was at the planning stage. The facts of that conversation remained locked in the cell where they took place, and neither of the two parties were reliable witnesses. The central fact was established, however. David Haggart killed Thomas Morrin and even in David’s version, the penalty was still death. Thomas was, after all, a jailor in one of his majesty’s facilities.

If that central fact could not be wiped clean, Davey had perceived that the value of writing his ‘true’ confession was the opportunity it presented to make him a nicer killer, daring rather than brutal. And so, with some dramatic flair, he set the scene. On the run, he arrived at Annan and took refuge in a haystack, where he overheard a boy tell his mother that Thomas had died last night at ten o’clock:

His word struck me to the soul; my heart died within me, and I was insensible for a good while; on coming to myself, I could scarcely believe that I had heard them, for the possibility of poor Morrin’s death had never entered my head.⁴⁹

There was no cant or slang here to take the edge from his attempt at sincerity. In his own mind, he wanted to be remembered for a ‘sporting life’. Although Thomas’s accidental death was consistent with this image, a brutal, planned murder was not.

⁴⁸ Cockburn, *Circuit Journeys* p. 212.

⁴⁹ *Ibid.*, p91.

When Cockburn challenged the veracity of David's account, his comment that it was 'a tissue of lies' applied not only to his version of the murder but also to his adventures. Other critics claimed that he exaggerated and invented many of his confessed crimes. It is understandable that he wanted to make himself better than he was, but why did he, in Cockburn's words want 'to make him[self] appear a greater villain than he actually was'?⁵⁰

One plausible explanation for David spending his last weeks manufacturing his legend was his hunger for fame. 'He wanted to die a great man', in the opinion of his defence advocate, George Borrow agreed. In 1851, he recalled a conversation he allegedly had with David forty years earlier when they met as youngsters, roughhousing on the crags at Castle Brae. At the time David was a drummer in Borrow's father's regiment, then stationed in Edinburgh. Asked what he was thinking about one day, sitting on the edge of the crag, David told him he wanted to be like William Wallace. 'Do you mean that ye would wish to be hanged?' asked Borrow. Young David replied, 'I wad na flinch from that, Geordie, if I might be a great man first.'⁵¹ The conversation may be improbable but the ambition was hardly unique among self-respecting Scots boys. Essayist William Roughead added his opinion many more years later, that grandiose notions of himself fuelled David Haggart's literary efforts. Broad-sides, it seems, were not enduring and important enough to carry his legend to the future, but a life 'published in book form at a convenient price,

⁵⁰ Ibid., Cockburn, *Circuit Journeys* p.212.

⁵¹ George Borrow, *Lavengro ; The Scholar-the Gypsy-the Priest* 3 vols.(London: John Murray, 1851) vol. 1 p113. On the basis of this evidence that David sought hero status, he then goes on to a fanciful comparison between the young Scots delinquent and the great Tamerlane to demonstrate the possibilities of greatness lost . 'Thou mightest have been better employed', he preaches.

might enable him to pass off upon posterity for the genuine Haggart the David of his romantic dreams.⁵²

A boy's romantic dreams and heroic self-image are nowhere more evident than in this aspirational little poem attributed to his creative period in the Iron Room, the original of which, in David's 'own handwriting', was given by the author to Henry Cockburn.⁵³

*Able and willing you will find
Though bound in chains still free in mind
For with these things I'll ne'er be grieved
Although of freedom I'm bereaved*

*In this vain World there is no rest
And life is but a span at best;
The rich, the poor, the old, the young
Shall all lie long before too long*

*I am a rogue I don't deny
But never lived by treachery;
And to rob a poor man, I disown,
But them that are of high renown*

*Now, for the crime that I'm condemned
The same I never did intend;
Only my liberty to take,
As I thought my life did lie at stake*

*My life, by perjury, was sworn away,
I'll say that to my dying day
Oh! treacherous S-, you did me betray,
For all I wanted was my liberty*

*No Malice in my heart is found,
To any man above the ground
Now, all good people, that speak of me,
You may say I died for my liberty.*

⁵² William Roughead, 'The Adventures of David Haggart', *Juridical Review* Sept 1917 p.204.

⁵³ *Catalogue of the Valuable Library of the Late Lord Cockburn to be Sold by Mr T. Nisbet, Nov 22, 1854* (University of Glasgow Special Collections). The gift was acknowledged in Cockburn, *Circuit Journeys* p.212.

*Although in chains you see me fast,
No frown upon my friends you'll cast,
For my relatives were not to blame,
And I brought my parents to grief and shame.*

*Now all ye ramblers, in mourning go.
For the Prince of Ramblers is lying low;
And all you maidens who love the game,
Put on your mourning veils again*

*And all you powers of music chaunt
To the memory of my dying rant-
A song of melancholy sing,
Till you make the very rafters ring*

*Farewell relations, and friends also,
The time is nigh that I must go;
As for foes I have but one,
But to the same I've done no wrong*

Here the petty thief and clumsy killer is transformed into the Prince of Ramblers. 'I died for liberty' echoes Patrick Henry's 'Give me liberty or give me death', but without a cause. He is at once Robin Hood, Casanova, a free spirit, a wronged man. His cheerful tone belies the seriousness of his situation.

David was little more than a boy when he sat writing and talking in the Iron Room in the days before he hanged. He wrote little to suggest that he was in touch with the reality of imminent death.⁵⁴ If autobiographies are the means, as Roy Pascal argues, for expressing our 'life illusions', it is hardly surprising that his was a boyish fantasy of heroic and wonderful deeds.⁵⁵ After all, had he not seen the crowds flock by torchlight to see him when he was brought back to Dumfries? Weren't the streets of Edinburgh heaving with people on the day of the trial? Didn't young women sigh?

⁵⁴ Right at the very end, however, he says 'I have no thought now but death', *Life* p.151.

⁵⁵ Roy Pascal, *Design and Truth in Autobiography* (London: Routledge & K Paul) p.vii, a man's own image of himself.

Had he not sensed their sympathy? His head was turned. He was not of an age for taking stock. It may be doubted that he thought seriously in terms of posterity at all or that he really believed he was about to die. His *Life* is just that, full of life. It is more an adventure story than an autobiography. Action packed, full of 'courage, bustle and enterprise' as one hostile reviewer noted, it is told in breathless excitement, its most frequently used conjunctions being 'and then' and 'next'.⁵⁶ His imagination may well have been full of daring escapes from the gallows or even the miracle of resuscitation. Both were very much part of gallows mythology, to be discussed in Chapter Six. According to the poem the prince of Ramblers was 'lying low'. Perhaps he expected to re-appear.

It is not at all difficult to understand why he spun his own image as he did. After all, David Haggart was not only a producer but a consumer of criminal biography. A sociable lad who could read, who frequented theatres, inns and dens of iniquity would quite certainly know the legends of thievery, its heroes, its ballads, its language and its bravado. And of course he was a hard-headed professional as well as a romantic. He knew about the market for it. He might even have taken as a compliment what one reviewer meant as a barb when he said of the *Life* that an 'air of improbability breathes over many of his pages, -and we fear, that, like others more fortunate in such matters, he has studied effect, as the means of raising money.'⁵⁷

But who would read a long criminal biography at a shilling? Philip Rawlings argues that in eighteenth century England it was likely that the core readership for longer biographies 'came from the same broad group as those who published it: the

⁵⁶ *The Scots Magazine* August 1821.

⁵⁷ *Ibid.*

tradespeople, lawyers, clergy, doctors and so forth who composed the middling class'.⁵⁸ There are no reliable statistics to tell how many people in Scotland could read in 1821, though the work of R.A.Houston suggests that, though not universal, it was impressively extensive by then, certainly in the lowlands. If the growth and output of printing establishments in Edinburgh is anything to go by, there was a mass readership on its doorstep. It is still more difficult to know about levels of literacy and where David's *Life* might sit in a scale of accessibility that included such reading materials as the Bible, handbills, chapbooks, newspapers, legal documents and novels. As Houston points out, access to literature is not the same thing as literacy and 'those living in close proximity to anyone who could read had access to literacy.'⁵⁹ The same goes for the price. In 1821, as today, readership was not the same as ownership. The *Life* was in the library.

There was, by all accounts, no shortage of eager readers. It was at one and the same time 'devoured by the virtuous' and 'highly gratifying to the criminal classes, who regarded the memoir as their Odyssey.'⁶⁰ The author of the *Animadversions* was concerned about its popularity amongst the young, and trades people. To his knowledge, he said, 'there is scarcely a tailor's board, tradesman's workshop, or merchant's shop in town, where the *Life* of Haggart has not, by some means or other, found its way among the men.' So keen were they to get hold of it that tradesmen had clubbed together, giving a few pence each to buy it and read it in turns. Copies were

⁵⁸ Rawlings, *Drunks, Whores and Idle Apprentices* p.4.

⁵⁹ R.A.Houston, *Scottish Literacy and the Scottish Identity: Illiteracy and Society in Scotland and Northern England 1600-1800* (Cambridge: Cambridge UP, 1985) p.195 and Chapter 5 for the growth of circulating libraries, with their high proportion of tradesmen and craftsmen. For the growth of Edinburgh printers, John Gibson Lockhart, *Peter's Letters to his Kinfolk* ed. by William Ruddick (1819; Edinburgh: Scottish Academic Press, 1977) Letter 21. 'Edinburgh', he said boasted of 'a greater literary market than almost any other city in Europe.'

⁶⁰ Roughhead, *Adventures of Haggart* p. 205.

'snatched at' in the circulating libraries, he complained.⁶¹ Here is an example of the moral anxiety that Patrick Bratlinger has identified as accompanying mass readership. Crime stories, along with sensational novels, Gothic romances and so on, came under attack in the 1800s for 'rotting the minds of their readers, promoting vice, and subverting cultural standards.'⁶² Crime rates appeared to be rising, young people were on the move in the countryside, and old patterns of trade and apprenticeship changing. Great care had to be taken with the literature that filled young heads.

The *Animadversions* made such a fuss that it suggests there was something especially worrying about David Haggart's literary efforts. On the face of it, however, it seemed very like other criminal biographies published in the past, and introduced here as a comparison. His version of himself was that he had led 'the sporting life', and it was this that joined his *Life* to that of the highwaymen and self-styled rogues who had gone before.

The longer criminal biographies before Haggart's

There is much about the *Life* which seems close to and even derivative from the biographies of eighteenth century English rogues. Several writers have drawn attention to one in particular. 'David Haggart is Scotland's Jack Sheppard', wrote Alban Philips, noting that, 'indeed there is a close resemblance between them.'⁶³ A century and a border separated their experience. Sheppard was hanged in 1724, and like David he was young, cocky and the hero of his own fantasy. He was one of the

⁶¹ *Animadversions* p.36.

⁶² Peter Bratlinger, *The Reading Lesson: The Threat of Mass Literacy in Nineteenth Century British Literature* (Indiana: Indiana UP, 1998) p.2.

⁶³ Albon N. Phillips, *The Prison-Breakers: A Book of Escapes from Captivity* (London: Philip Allan, 1927) p.62.

most famous of England's eighteenth century rogues. He did not murder anybody and his legend grew up around his amazing escapes, twice from Newgate as he awaited execution, weighed down with bolts and chains. His achievements as an escapologist were probably greater than David Haggart's, though it is difficult to compare them because Sheppard's celebrity was so successfully promoted by the newspapers that his skills were unquestioned. He never needed to exaggerate his prowess because the scribblers did that for him, and the rich and powerful beat a path to his jail cell to visit and be amazed. Daniel Defoe is thought to be the author of at least one of his biographies, *The History of the Remarkable Life of John Sheppard, containing a particular Account of his many Robberies and Escapes*.⁶⁴ He also had the good fortune, so far as a good story is concerned, to have been stalked and caught by Jonathan Wild, the thief-taker, whose fame equalled Jack's. The *Beggar's Opera* gave attractive singing parts to characters based on these two and ensured that their fame was not transitory. The public was interested in David Haggart too and the label of 'conjurer' had begun to attach to his name.⁶⁵ But Dumfries prison was not Newgate. Humble sheriff's officer John Richardson who tracked him down doggedly was not Jonathan Wild. There were no fashionable aristocrats to visit him in prison and the King had not asked for an engraving depicting his escape, as he had of Jack Sheppard. There was no Daniel Defoe to craft his story and tell it to a public wild to hear all about him. His bid for fame rested on his telling of his own story.

⁶⁴ Reproduced in Rawlings, *Drunks, Whores and Idle Apprentices*. He is not thought to have written a second biography, published after the execution, *A Narrative of all the robberies, escapes etc of John Sheppard* (London: John Applebee, 1724), though it is sometimes attributed to him.

⁶⁵ See for example, the execution broadsheet, *Execution of David Haggart, the Wonderful Conjuror, who made his escape from a number of jails in Scotland and Ireland* (Edinburgh, 1821), Murray Collection Mu1-x11/173b.

‘Written by Himself’ or ‘Taken from his own lips’ and ‘approved by him’ was a common enough claim, behind which lay a variety of marketing scams. As already noted, authenticity was a selling point and the use of ‘cant’, sometimes called ‘flash’ language helped sell a story of the underworld. Interest in cant predates the rogue biography, and the ‘father’ of canting dictionaries, argues Julie Coleman, was Thomas Harman, whose short glossary of beggar’s language, *Caveat or Warning for Common Cursetors* was published in 1567 and intended to clear England of beggars by revealing their tricks and disguises. Over the seventeenth century wordlists were copied and expanded in publications like the important B.E.’s *New Dictionary of the Terms Ancient and Modern of the Canting Crew* and Richard Head’s *The English Rogue*. Accounts of the lives of Jonathan Wild, Jack Sheppard and Joseph Blake generated more glossaries, as did those of Mary Young and Charles Speckman. One of the most important examples was John Poulter’s *Discoveries* published in 1753, which ran into seventeen editions between 1753 and 1779. Interest in this work came in part from its revelations about the network of fences for stolen goods in England in the middle of the century and the degree to which there was an organised underworld, but readers also wanted to learn cant. The purchasers, writes Julie Coleman, ‘sought to gratify their morbid curiosity and to attain what appeared to be a privileged insight into the workings of the criminal underworld.’⁶⁶ Not all cant was associated with crime, however, nor invariably attached to biographies. Gypsies, beggars and other marginalized groups were thought to use varieties of it. It infiltrated popular theatre and novels about the lower orders and became fashionable among the well-heeled. There was sufficient interest in the language itself among the educated classes in the late eighteenth century to account for the success of Francis Grose’s free-standing

⁶⁶ Julie Coleman, *A History of Cant and Slang Dictionaries, 1567-1784*, 2 vols. (Oxford: Oxford UP, 2004) vol 1, p.2. Her work analyses all these texts and more.

Classical Dictionary of the Vulgar Tongue first published in 1785.⁶⁷ Most of the words used by David Haggart in the *Life* are to be found in the eighteenth century English criminal biographies, or in Grose. Whether it was in fact a working language, a secret code used by thieves in Scotland, will be returned to in the next chapter.

There was something familiar, too, about the style and construction of the tale, as well as its language, which places Haggart alongside the English rogues. The *picaresque* novel may be traced to sixteenth century Spain but in Britain it had its heyday in the novels of Defoe, Smollett and Fielding, who in turn were influenced by criminal biography.⁶⁸ The picaresque hero was almost always unheroic, and not fully in control of events. Typically he told his own story in a structure which was 'episodic, a journey of unexpected encounters and incidents strung together in a haphazard manner.' The delinquent hero had relationships with women, but no permanence and in the end he would be thrown back on his 'inescapable loneliness.' He would get away with things the average person might like to do and for a while leads a charmed life but 'he only rarely manages to extricate himself from the sordid milieu into which he has been thrust.'⁶⁹ He was, nonetheless, attractive because, through misfortunes, he escaped for a while from the grinding monotony of life. He was the idealised English rogue, as written up in the biographies of Sheppard, Jack Rann, Harry Simms, Jonathan Wild and Captain Smith's Highwaymen.

⁶⁷ V.A.C. Gatrell, *The Hanging Tree: Execution and the English People, 1770-1868* (Oxford: Oxford UP, 1994) p.129 tells of this phenomenon and the research done by Grose, 'this greatest antiquary, joker, and port-drinker of his day' in the 'boozing kens' of St.Giles.

⁶⁸ See generally Lars Hartveit, *Workings of the Picaresque in the British Novel* (Oslo: Solum Forlag, 1987) and Alexander Parker, *Literature and the Delinquent: the Picaresque Novel in Spain and Europe 1599-1753* (Edinburgh: Edinburgh UP, 1977)

⁶⁹ Quotations are from Hartveit, p.15.

In his own mind, David Haggart was also this 'Jack the lad'. He first left home at ten, and tried different occupations, first as an apprentice in a firm that failed and then as a regimental drummer boy. Thereafter he did not actively seek paid employment for 'to work and be a slave to mankind I could never think of'.⁷⁰ Instead he enjoyed what he called 'the sporting life'. He travelled and had adventures, enjoyed the thrill of dangerous thefts and escapes often in the company of his friend Barney Maguire. For a lot of the time he enjoyed himself, gambling, playing billiards, going to the theatre, dressing up, chasing women and having fun. His *Life* is full of *blones* (young women). Some of them were, like Jean Johnstone, accomplices, others like the Anderson girls in Newcastle, of a respectable family and many more who were prison romances and brief encounters. His was a Regency lifestyle, stolen rather than financed by inherited wealth. Money brought happiness. 'I never was happier in my life than when I fingered all this money' he recalled.⁷¹ He enjoyed the friendship of similarly minded thieves.

A likeable rogue? His *Life* is at pains to make the violence he used seem less upsetting. Thus Thomas Morrin's death is portrayed as an unintended accident in the course of rather an exciting adventure. There are other assaults in the book, however, and possibly one other murder. He glosses over some bloody incidents with the police by casting them as 'bulkies', comic characters whose chases and arrests are made to appear like episodes from the 'Keystone Cops.' But when he laid one such 'bulkie' low with a pistol he rather takes it in stride with 'whether I have his murder to answer for I cannot tell; but I fear my aim was *too true* , and the fellow looked dead

⁷⁰ Haggart, *Life* p165.

⁷¹ *Ibid.*, p.17.

enough.⁷² And so it remains an adventure. He settles a consumer complaint about unsatisfactory 'router putters' (cow's feet) by striking the inn keeper, by name of Roohdie, on the nose with it and leaving without paying.⁷³ His 'self illusion' is of a rascal rather than a murderer or sinner.

For all the *Life*'s resemblance to eighteenth century, mainly English criminal biographies, it should not be supposed that there were no Scottish antecedents. Neither of Scotland's two great eighteenth century criminals wrote their own life stories, but they became embedded in Scottish popular culture far more deeply than David Haggart. Apart from that, Rob Roy and Deacon Brodie have almost nothing in common with each other. There was a biography of Rob Roy, published in 1723, eleven years before his death. *The Highland Rogue* was 'badly written and fanciful' in the view of one scholar, who also rejects the contention that Daniel Defoe wrote it.⁷⁴ Rob Roy was nomadic and rascally but he was a more complex outlaw and political rebel, difficult to categorise in the context of criminal biography or gallows literature. He died peacefully at home and owed his lasting fame to Sir Walter Scott rather than his biographers. There is only one known link between David Haggart and Rob Roy. He went to the theatre in Aberdeen to watch the play, *Rob Roy*, though there is nothing to suggest that he modelled any part of his own roguery on him.⁷⁵

⁷² *Ibid.*, p.32. There was more violence when he was arrested and claimed to have given Captain Ross of the Leith police a severe bruising in exchange for a bloody nose, p.75. Some housebreakings were accompanied by behaviour that was terrifying to the family, as when he robbed an isolated house with an accomplice who knocked the householder down and tied him up, witnessed by women of the family.

⁷³ *Ibid.*, pp.52-3.

⁷⁴ David Stevenson, *The Hunt for Rob Roy: The Man and the Myths* (Edinburgh: John Donald, 2004) p.189. According to the author, Sir Walter Scott thought Defoe should have written about him, not that he did.

⁷⁵ Haggart, *Life*, p.63. There was a theatrical performance of *Rob Roy* in Glasgow in 1818, which may be the one he saw, described in Stevenson, *The Hunt for Rob Roy* p.280.

Deacon Brodie was much closer to David in time and place, but he was far from a picaresque rogue. He lived a settled life in Edinburgh from 1741 until he was hanged in 1788. Behind his respectable image as a skilled cabinet maker and member of the Town Council, lay a more sinister life as a burglar who was finally caught and indicted for the robbery of the Excise Office in the Canongate. Though his trial was attended with even more public excitement than young Haggart's, he was slow to attract a biographer. It happened, however, that the well-known Edinburgh printer, William Creech, was on the jury and he produced a very full account of the trial, though not a life story of this compelling character.⁷⁶ It was a much more difficult read than David's *Life* but it sold out in the interval between the trial and the execution, necessitating a second edition in days and giving evidence of a brisk market for crime literature in late eighteenth century Scotland, beyond the cheap fare available from hawkers on the streets.

Lasting fame seems to have more to do with novelists than biographers, however. As Rob Roy's fame rested on Sir Walter Scott, so Deacon Brodie's rested on R. L. Stevenson, first in a play co-written with William Henley, *Deacon Brodie; The Double Life* and later in *The Strange Case of Dr. Jekyll and Mr. Hyde*.⁷⁷ Although Rob Roy and Deacon Brodie are antecedents in the sense of celebrity, the images of them that have come down to posterity are those manufactured by their 'creators' and reflect literary rather than autobiographical imaginations and insights. Though their criminal

⁷⁶ William Creech, *An Account of the Trial of William Brodie and George Smith, before the High Court of Justiciary* (Edinburgh: published for the author, 1788). Creech was an interesting character. An Edinburgh bookseller, he was born in 1745, educated at Edinburgh University. He enjoyed an important role within literary circles, publisher of Blair, Cullen, Ferguson, Stewart and of course Burns, who wrote a poem about him. Creech was author of *Fugitive Pieces*, sketches of Edinburgh life.

⁷⁷ William E. Henley in collaboration with R. L. Stevenson, *Deacon Brodie or The Double Life* (1880; reprinted London: Macmillan, 1921) was a melodrama, not as compelling as Stevenson's novel. For background to the novel, John Sibbald Gibson, *Deacon Brodie: Father to Jekyll & Hyde*.

careers predated Haggart's, their stories are more complex and psychologically interesting at least in part because of the talents of the distinguished novelists who fashioned their lives, in both cases a century after the events. It seems quite unfair, therefore, of William Roughead to complain that David Haggart was no Deacon Brodie, whose 'art' was so superior that it needed no autobiography to sustain his glamour in the public mind.⁷⁸

A handful of other gallows victims in Scotland left behind substantial 'lives' but gained only fleeting fame. Among them were two that invite comparison with David's *Life*. William Gadesby was hanged in 1791, James Plunket in 1792. Both claimed authorship of their *lives* for themselves and insisted that the role of editors had been confined to correcting spelling errors and in one case 'grossly provincial idioms and expressions' had to be excised. The *Account of the Life and Transactions of William Gadesby*, 'written by himself when in prison' offers a glimpse into the symbiosis of criminal and publisher.⁷⁹ The editor was none other than William Creech, Edinburgh bookseller, juror at the trial of Deacon Brodie, and successful writer of the account of that trial. Based on his recent insights into crime, he offered Gadesby's *Life* in the public interest, to educate unwary citizens and put them on guard against increasing evil. He quoted a witness from the Brodie trial:

In several late criminal trials, it has appeared, that this country is considered by atrocious villains as a region yet unexplored, and open to depredations of every kind, with little risk of detection or fear of punishment.⁸⁰

⁷⁸ Roughead, 'Adventures of David Haggart' p.204.

⁷⁹ William Gadesby, *An Account of the Life and Transactions of William Gadesby* ed. William Creech (Edinburgh:1791).

⁸⁰ *Ibid.*, Preface, quoting John Brown alias Humphrey Moore, examined at the trial of William Brodie.

The true extent of Creech's role in the production of Gadesby's *Life* is unknown. He had certainly latched on to the marketing potential of crime stories to be purchased by citizens who were nervous about law and order.

The Glasgow publisher of *The Life and Transactions of James Plunket* showed a similar awareness of the market and warned off competitors, since they had 'paid an adequate value for the sole privilege of publication and will prosecute others with utmost rigour if they reprint.'⁸¹ The naked motivation of the publisher showed in the inclusion of an appendix of more stories told to him by Plunket and 'which may possibly be afterwards published if the present account meets with the approbation of the public.' The energies of the publishers and the ways they protected exclusive rights suggests that in the decades before David Haggart, the genre was driven by what the publisher thought would sell. This one was testing the appetites of the public with little fragments or 'trailers' for forthcoming adventures. Even if the authors would be soon dead, their agents and relatives still had to be paid.

The tales published in Scotland up to the turn of the century were very similar to the classic rogue literature. Though hanged in Scotland, neither Gadesby nor Plunket was a native Scot. Gadesby was born in England, and Plunket, who was an accomplice of the much more famous, dashing highwayman James MacLaine, was Irish. Both were said to come of respectable parents but liked to pose as gentlemen, to dress well, usually in stolen clothes, and attend theatres and other amusements. Both were philanderers. Plunket got a grocer's daughter into trouble and later took advantage of his employer's daughter, his landlady and sundry others, two of whom he 'married'

⁸¹ James D. Plunket, *An Account of the Life and Transactions of James Plunket* (Glasgow: Robert Duncan, 1792), Appendix. This was sold for ninepence. Most of these 'trailers' were anonymous accounts of theft, three involving firearms discharged.

and deserted. Gadesby was a two-timer who wrote passable love letters, though it seems unlikely that he preserved them for use in his 'life' if he actually sent them to his 'most adorable Kate'! Both were experts at theft, escape, flight and evading responsibilities. Like David Haggart they took pride in youthful pranks. Plunket, for example, recalled how, in Paisley, 'I coloured some halfpennies, which I passed for shillings.'⁸² It was a little pedestrian for a putative highwayman. Neither wrote from a deep sense of regret and William Gadesby's proffered image of sitting down to write his life story in a 'paroxysm of despair and penitence' contrasts with the tone of the text.

Like David, these men were nomadic. James Plunket drifted in and out of the army, deserting and rejoining. It was this rootless way of life that provided the backcloth to his travels and the opportunity for petty crime. It is more than a coincidence that in all but one of the biographies I looked at their subjects had been in the army for a while and deserted. Plunket came to Scotland when his regiment was ordered to Glasgow. 'This is the first time I ever was in Scotland,' he wrote, 'and I wish to God I never had been in it' He described Glasgow as 'the most unfortunate place I was ever in'.⁸³ It was, for he hanged there in 1792. William Gadesby's army life followed a similar pattern of joining up, deserting, rejoining, and thieving and resetting as he went. Although these young men wrote sometimes with a tone of pride about their exciting adventures, the fact is that they must often have been miserable. Plunket and Gadesby experienced the harsh side of military as well as civil punishment, and were subjected to several hundred lashes apiece. Perhaps, like David Haggart, writing about life gave it a meaning and a commercial value that living it often lacked.

⁸² Plunket, *Account* p.36.

⁸³ *Ibid.*, p.37

Like David neither of them seemed serious about the finality of dying just yet, even as they wrote. In a letter to an accomplice on 10 January 1791 Gadesby wrote, 'I must inform you that I nick Molly Blood'⁸⁴ (cheat the gallows). He did this by promising a confession that would disclose to the authorities the identities of his accomplices in robbing the Dundee bank, the crime he was to hang for. This earned him a short reprieve from the Lords of Justiciary, but when it became clear that this was just an 'artful contrivance to delay his execution', he was promptly hanged.⁸⁵ As for Plunket, accounts of his demise tell of his reluctance to climb the steps to the gallows, of his hopes of escape and how he 'had also applied to some surgeons, in order that the usual experiment might be made upon his body for the purpose of restoring him to life; but this did not take place.'⁸⁶ Not all criminal biographies issuing from the condemned cell were really intended to be epitaphs.

Not all criminal biographies were picaresque tales either, and some that were not will be examined in the next chapter. There is, however, no doubt that David Haggart's *Life* shared a number of characteristics with earlier literature; the murky identity of those who instigated it or had a hand in writing it; its location in a shiftless, nomadic lifestyle; exaggerated adventures in the course of petty crime and escapes from the law; its use of canting terms and the ever present danger that a bit of a lark will turn into even unintended violence. Its publishers had the same interest in tapping a market that was fearful of crime but also very curious about its perpetrators and the ultimate

⁸⁴ Gadesby, *Account*, Appendix.

⁸⁵ The brief respite was given just three quarters of an hour before the scheduled hanging. The accomplices/witnesses mentioned in his confession were called and he was asked to identify them from a parade of a dozen. When he chose three who were known to have good alibis, his plan was unmasked.

⁸⁶ Plunket, *Account* pp.47-48. His body was lying in the court hall, when, a few hours later a noise was heard and thought to be a revived Plunket. It turned out to be a dog.

punishment that awaited them. Were they just like themselves? Could it happen to anybody? Criminal biography was packaged ambiguously to appeal to the fearful, the moralist, the voyeur and the vicarious adventurer in the upright citizen. To judge by the texts examined here, it was not seriously a guide to avoid falling into a life of crime or even guard against having your pocket picked by knowing the tricks of the trade. It was only prefaces and adverts that spoke of public interest, educational value and repentance.

David Haggart's *Life* shared many of the features of earlier examples of the longer criminal biography. If it was as conventional as this, it might have been expected to go unnoticed, but it did not. It caused a great public stir. It is time to look more closely at the readers and the text, and assess what impact it had on the literature of crime.

CHAPTER THREE

HAGGART'S *LIFE*: ACCORDING TO READERS AND WRITERS

There is a sense in which readers rewrite books in the light of their own experience, imagination and location in the moral universe. Thus it is not unusual to find that 'the writer and the publisher may think they are producing a text which condemns criminals, but the reader may see the criminal as a hero or heroine'.¹ In Scotland in the 1820s that was an outcome likely to cause panic. Rising crime, committed largely by youths under twenty-one, coupled with the moral and economic consequences of rapid industrialisation and urbanisation made the establishment nervous of anything that made disorder glamorous. The years following the Napoleonic Wars brought evidence of the danger of social and political unrest. David Haggart's criminal career ran in parallel with the political uprising of the radicals whose leaders, James Wilson, Andrew Hardie and John Baird were hanged just a year before him. The law, the church and the state were in no mood to be mocked by a slim little volume of autobiography that contained no political manifesto but no demonstrable condemnation of crime either. It appeared to lack that quality of criminal biography that helped contain disruptive energies by affirming the state's values of stability and moral order. In its own way it seemed as defiant as the weavers and just as likely to incite others. Three things were quite unacceptable: its lies, its language and its mocking tone.

¹ Rawlings, *Drunks, Whores and Apprentices* p.14.

Henry Cockburn was absolutely sure about the lies. On the flyleaf of his own copy, given to him by the author he wrote, 'this youngster was my client when he was tried and convicted. He was a great villain. The *Life* is almost all lies, and its chief curiosity consists of the strange spirit of lying, the indulgence of which formed his chief pleasure to the very last.'² More specifically, a correspondent wrote to the Editor of *The Scotsman* presenting evidence that this 'mischievous' book 'lies three-thirds, and uses only here and there a known truth to pass a thousand fictions with.' Writing from a Newcastle address, he offered these factual challenges:

On coming to Newcastle in 1817, the hero mentions his putting up at the house of William Fleming, in the Groat Market;-*no one here can recollect a person of this name ever keeping a house of entertainment in this quarter of the town.* He afterwards lodges in Castle Street;-*there is no street of this name in Newcastle.* One of his adventures is in Rukergate;-*we have no such place here.* He and his friend Barny remove, in January 1818, to Durham, and break into a house six miles from the York road;-*the provincial papers of this period, after a careful examination, make no mention of any such burglary.* He and his companion, he affirms, are tried and condemned for this exploit, at the spring assizes at Durham in 1818;-*there were no spring assizes at Durham in 1818, nor were any prisoners of their name and description ever arraigned or condemned at either assizes or sessions there.*³

Game, set and match? Criminal biographies had never been read for their truth in terms of factual accuracy and the letter-writer's blustering outrage at finding so many holes in David's story seems disingenuous. So there was no Castle Street after all, but does it matter? A pinch of salt was always required if readers were to see into this young man's world. There are many obstacles to the truth in any autobiography, including memory, ego and self-deception. Deliberate lies are fatal to the particular facts they undermine, but not to all the other things a *Life* might tell us. Wrong names and streets in Newcastle, even a burglary of which, it seems, he might have been innocent because it never happened, are not revelations that would blacken the good

² Quoted in Albon M. Phillip, *The Prison-Breakers: A Book of Escapes from Captivity* (London: Philip Allan & co., 1927) p.113.

³ Letter to the Editor of the *The Scotsman*, 8 August 1821, *The Scotsman*, 11 August 1821.

reputation of a man about to hang. The letter writer's real point, however, was made later in his letter. It was about the folly of Edinburgh's 'pious men' for accepting this 'adroit scoundrel' as a penitent and praying for mercy for him.....and all the time he had lied in his memoirs! In the future, he hoped the lesson would be learned and they would be more cautious about trumpeting these 'at best suspicious, and hastily got up conversions.'

It was not the lies but the language which caused the greatest outrage. It was written in 'the peddler's French as it was mis-spoken in the hells of Edinburgh.'⁴ Other European countries had their own thieves' talk. In France it was *argot*, in Italy *gergo* and supposedly it was unintelligible to respectable folk. In England it was *cant*. Its practitioners had at one time used it to communicate their strategies of theft to one another, even within the hearing of their intended victims. By David Haggart's time, it overlapped with 'flash', the language of London's underworld, which had graduated into fashionable currency well beyond the thieves' dens and drinking houses where dictionary compilers had collected its exotica for sale to a wider public. Theatre and song made many of its words and phrases widely known in London's demi-monde and beyond.

But what was this version that surfaced in Edinburgh in 1821? Its critics styled it 'a language by itself', so unusual and 'so far beyond the comprehension of honest folk, that its evil influence would have been much circumscribed' if it had not been for the provision of a glossary at the end of the book, containing a word-list of 122 entries.⁵ The author of the *Animadversions* decried this as the greatest evil of all. According to

⁴ Whibley, *Book of Scoundrels* p. 212.

⁵ *Animadversions* p.34.

his information, it was the language of the glossary that had caused the book to fly off the shelves of booksellers and circulating libraries. Its popularity amongst the young was worrying:

[S]o fascinating is the *glossary* in the eyes of the youth that they can repeat the most abstruse phrase in it, with more pleasure, and greater facility, than they can do the questions in our Church Catechism, with which every child in Scotland is supposed to be familiar.⁶

His proof that it really had opened a window into a secret criminal language was that those ‘lacking in virtue’ who already knew it reacted angrily to others knowing it. It ‘draws from them execrations and oaths against it, because it exposes the secrets of their distinguished fraternity.’ He concluded that the promiscuous circulation of the book would ‘do more real injury to society than ever *poor Haggart* did in his life!’

The fear was real enough. It is not so easy to establish the social reality behind it. There were fads about language. Peter’s *Letters to his Kinfolk* gives an account of a fashionable craze in polite Edinburgh about the same time for using legal phrases. Even women, he said, succumbed to it and strove to acquire some smattering of legal phrases to embellish their conversation, though its use in a courtship-letter was thought to be apocryphal.⁷ It is not beyond possibility that youngsters, amongst them apprentices and tradesmen, seized upon some of David Haggart’s slang in much the same way that ‘rap’ allows today’s young people to experience a fashionable fellowship with each other—and not their elders—in ‘talking the talk’. Indeed there are descriptions of gangs in Haggart’s *Life* which seem to invite that idea of

⁶ Ibid., p.35.

⁷ *Peter’s Letters to his Kinfolk* Letter 14 [28].

brotherhood. He described six young thieves of his acquaintance, who came from York:

The leader's name was Park, alias Boots; Simpson, an old bass-drummer in a militia regiment; James Graham, alias the Highflyer; and Fitzwilliam, alias Busy Bee.⁸

There was perhaps an element of youthful posing about imitating the speech of such colourful characters. Language could be a fashion accessory in Edinburgh as in London.

The more difficult question to answer is whether David Haggart and his friends were using a genuine secret thieves' language, a true cant. Julie Coleman has made the most extensive study of English cant and slang dictionaries.⁹ She places his glossary within the tradition of wordlists attached to 'rogue' biographies, not by lexicographers but by people with first-hand experience of the criminal underworld. There seems little doubt that his wordlist was not copied from another, a practice among hacks and compilers that had surely undermined the whole idea of secrecy. Anyone, says Coleman, 'who actually wanted to converse in a secret language would have been well advised to avoid anything in these lists.'¹⁰ Although cant seeped out into the wider community, however, and later mingled with 'flash' it did not preclude the invention and use of some terms for criminal enterprises and the discarding of them when they became too well known. Professor Coleman's verdict on the wordlists attached to earlier rogue biographies is that some terms are indeed genuine criminal cant:

⁸ Haggart, *Life* pp.24-25.

⁹ Julie Coleman, *A History of Cant and Slang Dictionaries* 2 vols. (Oxford: Oxford UP, 2004). In volume 2 Haggart is included among the 'Minor British Cant and Slang Lists.'

¹⁰ *Ibid.*, vol 1 p. 187.

The very fact that we have no other evidence of their use may demonstrate how well their users kept them hidden; some however, became fossilized by their repeated occurrences in canting lists and literature. Other terms achieved more general currency, and may have formed part of contemporary urban slang or dialect. A few are still in general use.¹¹

A closer look at the glossary to David Haggart's *Life* confirms this. The great majority of the words were readily available in other English cant lists, with the occasional differences in spelling that might be expected when the text was dictated in a Scots accent.¹² It is not at all surprising that David knew them. He moved around the north of England and Ireland as well as Scotland and he moved in company likely to know the words, with their inherent irreverence, even defiance for authority and 'betters'. Julie Coleman analysed the words by category and concluded that the 'semantic focuses of David Haggart's word-list are stealable objects (money, clothes, artefacts), crime and dishonesty, and law and order. Together these fields make up 55.7% of the dictionary.'¹³

The words that are not on other well-known English wordlists are more interesting than the ones that are. A dozen or so were distinguished by later inclusion in either the *Dictionary of the Scots Language* or, more rarely, the *Oxford English Dictionary*, as the first noted use of the word.¹⁴ Of course it has to be borne in mind that even if Haggart's was the first written use, its oral history could have been much longer. For example, the OED credits David with the first written use of two words that became

¹¹ *Ibid.*, p.190.

¹² An example is the inclusion of *cloy* (a pocket). This was probably a misspelling of *cly*, used in English canting dictionaries as early as 1690. *Blone* (a girl, whore) is another example, more often found as *blowen*. The English wordlists consulted for comparisons are in Coleman, *History of Cant*, 2 vols.

¹³ Coleman, *A History of Cant* vol 2. p.213.

¹⁴ All citations are to online electronic editions of these dictionaries. The *Dictionary of Scottish Language*, www.dsl.ac.uk comprises DOST, The Dictionary of the Older Scottish Tongue (12th-17th centuries) and the SND, The Scottish National Dictionary, 18th-20th centuries), together with its supplement, SNDS. The *Oxford English Dictionary* is the 2nd ed., <http://dictionary.oed.com/>

well-known slang; **nippers** (handcuffs) and **stretch** (a term of hard labour for twelve months). Any assumption that David invented these words would be quite unwarranted. More intriguing are the words that seem to disappear after a single citation or a very limited lifespan. Were they original inventions of David's and if so, were they unique to his criminal associates and activities? Were they possibly invented in the course of telling the story to add colour? The words do have a strong association with crime, suggesting an authentic cant :

Deeker : DSL-SNDS from **deek** v.n.1(1) ; thief kept in pay by a constable. There are no other references to this usage other than the *Life of Haggart*. The verb **deek**, to 'spy out' was used in Scotland.

Fiddlestick : DSL-SND from **fiddle** n.4(5) ; a spring saw. No other references other than to Haggart, *Life*.

Geach : a thief. Attributed to Haggart by both DSL and OED. The OED contains only one other written use, in 1909.

Grawler : DSL-SND from **grawl** v. (to scrounge) ; a beggar. Attributed to Haggart. One further use noted, 1844.

Luke : nothing. Both DSL and OED attribute first quoted use to Haggart, *Life*. There is only one further citation in OED to a use in 1864, *Slang Dictionary*.

Mill tuig : a shirt. DSL-SND reference is to **tugs** n.pl. It seems likely that 'tuig' is related to 'togs', a more commonly used slang word, meaning 'clothes'. There are further noted uses in 1827, 1853 and 1862.

Milvad : a blow, **milvadering** : boxing. DSL-SND attributes first usage to Haggart, *Life* but listed as **malvader**. One further written use is noted, to *Galloo. Encycl.*

Possibly this is a local version of the commonly used English slang term '*mill*', to box.

Stammer : indictment. Described in DLS-SND I 2 (3) as derived from 'a gabble of words' and the only instance of its usage as an indictment is attributed to Haggart, *Life*.

Suck: breast-pocket. The only reference to that usage in DLS-SND is to Haggart, *Life*, though the OED cites both Haggart and *Chambers Journal*, 1923.

Thaan : cloth. The one and only reference in DSL-SND is to Haggart, *Life*.

To add to the intriguing possibility that David's version of 'pedlar's French' was at least to some extent indigenous or made up by Haggart himself, there is a further short list of words which appear to survive only in Eric Partridge's *Dictionary of Slang and Unconventional English*.¹⁵ Again these are mostly attributed to Haggart's *Life* and relate to 'the sporting life'. It includes **budge** (drink). Partridge suggests it may be a perversion of the more common word **bub** (strong drink); **chats** (seals). In English slang it meant 'lice'; **chatterry** (cotton or linen goods) ; **conish** cove (a gentleman). Cove was in common use but not 'conish', which Partridge offers as a 'Scottish gentleman; **coored** (whipped) which may be derived from 'scourged' or possibly 'coordie-smit', a Scots term for a coward's blow ; **coreing** (picking up small articles in shops); **dot** (a ribbon); **flats** (cards) which in other English canting lists meant a fool. Partridge dates its use as cards as around 1812, and therefore before Haggart; **hoys** (shop-lifting). This may be derived from the more common word **hoist** (shop-lift) ; **jaun** (to discover); some words for coins e.g. **kid's eye**(a five penny piece), **jumper** (a ten-penny piece), **tannie** (a half-penny); **much toper feeker** (an umbrella

¹⁵ Eric Partridge, *A Dictionary of Slang and Unconventional English* (London: Routledge, 1937).

maker) Partridge suggests this is probably a version of *mush topper feeker*, with the same meaning, that appeared on other wordlists; *rousting ronnies* (raising potatoes). According to Partridge this may have been a corruption of the commonly used *roundy* (a round object).

Haggart's glossary thus breaks down into words that were commonly found on well-known slang wordlists and a smaller number of words, most of which were short-lived and most of which found their way into dictionaries which attributed their first written use to his *Life*. This is quite compatible with the proposition that it was, at least to an extent, a genuine, secret criminal patois used by David and his associates. Alternatively, he could have made them up to embellish his tale of wonderful adventures, perhaps conscious of how interesting and commercially attractive his secret language made him. Once published, the survival of these words in later dictionaries was predictable from the habits of lexicographers to copy from each others' lists and to treasure antiquarian finds. It is less likely that they survived in the living language and very few are traced beyond a first use by Haggart.

Nonetheless, given that David had such a hunger for fame, it is ironic that his immortality was secured literally by his words rather than his deeds. The OED cites his *Life* twenty-three times and the DSI many more times. Pierce Egan borrowed half a dozen words for his edition of Grose's *Classical Dictionary of the Vulgar Tongue*.¹⁶ Partridge preserved most of the ephemeral ones that escaped other compilers. David Haggart was also credited with giving American thieves a word. In an article in 1890 William Cuning Wilde traced the word **ben** (a vest) to Haggart's

¹⁶ Coleman, *History of Cant* vol 2 p.165. These were **cuddie** (a jack-ass), surely not cant but Scots; **deeker**, **dot**, **geach**, **jaun**, **nippers**, discussed above.

word for the same article, a **benjy**.¹⁷ It is more likely that both were derived from **Benjamin**, an overcoat of a particular shape, first noted in the OED in 1810.

Nonetheless all this secured him at least a minor status in the annals of lexicography. Dictionary entries, of course, cannot answer important questions about the life of a language. All that can be safely extracted from the evidence is that David was familiar with some quite well known English canting and flash terms and may also have used a secret stock of words in limited and short-term circulation among his associates in criminal enterprises. Beyond that lies the possibility that this young man also enjoyed a joke with words. He mocked the police with 'bulkies'. Perhaps he mocked his scribe and his readers with 'much toper feeker' and 'rousting ronnies'. It is hard to imagine using these in ordinary or even criminal conversation without a grin.

The young men of Edinburgh who were so enthusiastic about the glossary may well have enjoyed the joke too, at the expense of concerned citizens. The language appeared to be a novelty there. Though most of it was to be found in English rogue biographies and wordlists, some must have been new. There is a difference between reading and speaking, however. The youths who wanted to read the book in order to speak it could not have heard it in the street. That should have been some consolation to the respectable classes, for it suggests that there was no extensive, organised underworld in Edinburgh. Nor was the spread of interest in this language beyond the criminal classes a sign of the spread of criminality. Non-standard English is frequently an arena within which the identities of the classes and the generations are contested. If young people were annoying older people by using words associated with their fear of crime and delinquency, it may have been a more general sign of

¹⁷ William Cumming Wilde, 'Notes on Thief Talk', *The Journal of American Folklore* vol.3 no.11 p.306. He also attributes *crib* meaning a house to Haggart. This was erroneous.

worry about morality and authority in a society reeling from urban and industrial change. The author of *Animadversions* had an unusual way of describing his anxiety over the generation gap, lamenting ‘ye young of the present generation, my bowels melt for you.’¹⁸

At heart, the outraged readers who took such offence to the *Life of Haggart* felt that their authority, their ‘bulkies’ and worst of all their Christian beliefs had been mocked. David Haggart had enjoyed his sin and had still not looked into his soul. One of the hazards of the condemned cell was that its occupants had to undergo the relentless visits of clergymen of every persuasion:

Soon after a man receives sentence of death, he is not only attended by the regular clergy of this city, [Glasgow] and many pious and well-disposed people, willing to do good; but he must also be pestered with enthusiasts and sectaries of all denominations.¹⁹

Mainstream clerics did not welcome all the dissenters, lay preachers and ‘inexhaustible evangelists’ who came to pray with the prisoners. Some of them brought impossible promises of instant paradise and others were suspected of having a greedy eye to the profitable business of writing broadsides.

Nor were they always welcomed by the prisoners. Jack Sheppard, for example, awaiting death in 1724, was said to have told Mr. Wagstaff, the Ordinary of Newgate ‘one fite’s worth all the Bibles in the world’. He ‘made himself as merry as possible and endeavoured all he could to prevent religious discourse.’²⁰ David must have seemed just as reluctant. He was, after all, of the opinion that a ‘man who was

¹⁸ *Animadversions* p. 30-31.

¹⁹ T.B.Bayley, *Thoughts on Justiciary Trial Occasioned by the Alarming Increase of Justiciary Trials at Glasgow Spring Circuit, 1787* (Glasgow: David Murray, 1787)

²⁰ *The History of Jack Sheppard A Most Notorious Housebreaker and Footpad* (Newcastle: Hall & Fordyce, n.d.) p.22.

born to be hanged, will not be drowned.’ Right at the beginning of telling his life story he made it plain that there was no point in repentance:

I knew all this was wrong, but I had no time to be sorry, or repent; and what would have been the use of repentance, for it was just all fate.²¹

It was not a view that ministers liked to hear. When John Reid told his advocate James Boswell that his life and death were foreordained, the less than godly lawyer gave him the conventional Christian response:

“John”, said I, “this would not have been foreordained for you if you had not stolen sheep, and that was not *foreordained*. GOD does not foreordain wickedness. Your Bible tells you that.”²²

After reading the appropriate verses of the Bible to him, he noted, ‘people in his situation are very apt to become predestinarian.’ Boswell blamed it on Cameronian preachers and puzzled over the doctrine of the elect in Calvinism, which after all included ‘all actions, bad as well as good.’²³

Half a century later it was still thought to be a great wickedness for murderers and miscreants to take refuge in ‘fate’. In that direction lay the passive acceptance of sinful propensities. One reviewer of the *Life* expressed shock that ‘the doctrine of fatalism [was] urged as proof of the uselessness of repentance. This doctrine holds out to conscience too ready a quietus.’²⁴ David Haggart was a soul ripe for saving. And in the end he did seem to pray and to have hopes of mercy. The problem was that it was all too easy to be duped by the fervent prayers and sudden conversion of a man so recently proud of his achievements. Some of his readers did not believe his conversion was genuine.

²¹ Haggart, *Life* p.4.

²² Wimsett&Pottle, eds., *Boswell for The Defence* p.288.

²³ Ibid., p.299.

²⁴ *The Edinburgh Magazine, a new series of the Scots Magazine*, August 1821.

There is one alleged window into his soul, a published account of conversations between a clergyman and the condemned youth and it seems to indicate some realism on David's part.²⁵ When asked how he felt about his soul's future in eternity he apparently replied that he did not feel as he ought to, as he had a heart of stone. He asked if anyone else as bad as him had, in the past, entered the Kingdom. Assured that there was a Biblical precedent, he began to pay attention and his convictions became powerful. Yet there was still a note of caution, for, when he faced the question of whether his repentance at the end arose from his circumstances rather than from offending God, 'he candidly acknowledged that he was more influenced by the former than the latter.' Nonetheless the clergyman was optimistic for his spiritual future and wrote a dire little poem about it:

His crimes , though deeper far than crimson stains
His sins, though vying with the scarlet glow;
Through the blest fountain from Emmanuel's veins
May be washed whiter than the drifted snow

David was off to 'Canaan's far happier shore.'²⁶

But should it be that easy to enter God's grace? That had been the subject of a long-standing debate. In 1787 one writer described it as a 'shocking farce' that during the period awaiting the hangman, 'like the butterfly from the caterpillar, the chief of sinners comes forth a new being of superior order, a pretended saint'.²⁷ Why then should virtuous men toil hard for their ultimate reward in heaven when others kill and steal, knowing they can wipe the slate clean at the last minute? Only in Scotland could the hanging of a twenty-one year old be made into an undeserved benefit. Readers who saw in the pages of Haggart's *Life* plenty of evidence of insincerity worried

²⁵ Anon. ('A Clergyman of the Church of England'), *The Convict: A Poem Occasioned by the Execution of David Haggart at Edinburgh*, (Edinburgh: D. MacDowall & T.J. Allman, 1821), Notes.

²⁶ Ibid.

²⁷ Bayley, *Thoughts on Justiciary Trial* p.13.

about the message it was sending to the youth of the day. The pious men of Edinburgh had been taken in by his conversion, just as the victims of his robberies had been taken in by his clever fingerwork and plausible patter. There was already a well known example of such an attempt to swindle God. In 1803 the Reverend William Kingsley had warned the public of a Scotswoman who was sentenced to die for infanticide. None of the clergymen who surrounded her had the least doubt about the sincerity of her conversion until the rope broke, she went free, and returned to her old vices.²⁸

As he sat in the Iron Room telling his life story young David Haggart probably had no idea of what deep-seated fears some of his readers would bring to it. His imagination took him to places where he had committed crimes but reminded him of what a fine time he had enjoyed with his friends and what a top thief and escaper he was. He knew that readers liked rogue adventures, and as a storyteller he could not resist gilding the lily. The trouble was that he made it sound too good. Some respectable Edinburgh citizens would have preferred that the young would read criminal biography and see authority upheld, sin regretted, honesty vindicated and Christian virtues prevailing at the last.

A turning point in Scottish criminal biography?

David Haggart's *Life* was the last of a kind of rogue biography more common in the eighteenth century. There had been a gap of over thirty years since the last professional thief awaiting a hanging in Scotland had written an account of his life

²⁸ Harry Potter, *Hanging in Judgment: Religion and The Death Penalty in England from the Bloody Code to Abolition* (London: SCM Press, 1993) p.22.

with anything like the same panache.²⁹ This helps to explain why a new generation found it shocking. The fashion for it was over. In the interval only two noteworthy biographies had been published. Both were murderers whose lives were sad and desperate, and possibly blighted by madness. There was nothing about the way their stories were told that would have encouraged imitation.

James McKaen was more than twice David's age, forty-four when he hanged in Glasgow on 25 January 1797 for the murder and robbery of James Buchanan. His *Life*, 'taken down from his own mouth' in 'as near his own words as possible' begins with an explanation of some dirty dealings about the business of publishing.³⁰ McKaen was kept in prison in Edinburgh for a time after his arrest. There he was 'continually tormented by the turnkey and others' to write a narrative of his life. He had consented, 'unwarily', but greatly regretted some of the things he said, 'I being in a perfect phrenzy or delirium, when they were taken down.' Now that he had promised his Glasgow publisher a full and authentic account of his life, he petitioned the Honourable magistrates of that city to urge their counterparts in Edinburgh to prevent publication of a rival biography. He claimed to have received no money for this manuscript. The Glasgow story was the only one authorised. He or his publisher was well aware of how to whet the appetite of readers. There was tremendous public interest in this man and the reason was that, although he pleaded guilty to the murder of Buchanan, rumours were rife that he had other murders on his conscience, notably his mother's. As he prepared his dying speech, and asked for it to be published in case the multitude was unable to hear it on the day, he let it be known that though he chose

²⁹ *An Account of the Life and Transactions of William Gadesby and An Account of the Life and Transactions of James Plunket*. See Ch.2.

³⁰ James McKaen, *The Life of James McKaen* 3rd ed. (Glasgow: Brath & Reid, 1797).

not to address the rumours in that speech, there was a forthcoming biography. Read all about it.

There is no levity in McKaen's *Life*. The only episode of black humour occurs when, after promising a woman his mother wanted him to marry that 'nothing shall ever part you and I but death' he led her to a place in the road where there were two dead horses lying. Putting her on one side and himself on the other he was able to say that 'death had now made a separation between us!'³¹ His relationships with other women were no more loving. His mother has a large presence in his account and McKaen portrays her as supportive but interfering. She had a business selling lace and cotton. He ran away from home early and became a shoemaker, but like David Haggart re-appeared frequently and accepted help to get out of scrapes. There were plenty of these. He joined the army, where he showed a dangerous propensity for violent outbursts. Finally he settled in business in Glasgow and his mother lived with him until her mysterious disappearance. She was found dead in the canal. The rumours that he murdered her started and never went away.

As to the murder for which he hanged, the story began in the High Street when McKaen met James Buchanan, the Lanark letter carrier, who had been involved in a quarrel with him three years earlier. Fuelled by alcohol, the quarrel was re-opened. Buchanan kicked him on the shin. In retaliation McKaen slit his throat and robbed him. Like Haggart he fled, and much of his *Life* is about being on the run. The comparison ends there. This fugitive, far from enjoying a 'sporting life', hit the depths of misery and contemplated suicide. Tears, phrenzy, and sleeplessness were his lot.

³¹ *Ibid.* p.12.

The book's attraction for readers was certainly not in the adventures of a rogue. The crowds who turned out to see him hanged were unambiguously in favour of his comeuppance.³² It seems likely that their fascination was with horror and oddness. Amongst the questions he was asked in captivity was whether he had roasted his mother's cat in a pot. He was a violent, unstable personality, a middle-aged man so apparently 'other' and unnatural that people were fascinated by him. Readers were more likely to enjoy frightening themselves than think about imitating him.

And so it was with Maitland Smith. There was no attempt at 'ghost-writing' here and there was complete clarity about what readers were expected to think. It was written by the Reverend Henry Duncan as part of a planned series of tracts by a Society of Clergymen.³³ This particular tract was in the same volume as one to counteract the radicalism of the weavers. The lesson was writ large:

The chief object of this little Narrative is to show, by an example taken from real life, what dreadful enormities men, whose hearts are not under the deep-felt and habitual influence of religious temptation, be led to commit.³⁴

Maitland Smith was thirty-two when he was hanged at Dumfries for robbery and murder. Born of 'poor but honest parents', he had some religious instruction from an elderly master. He too joined the army in 1796 and seemed to have had a successful career until he was discharged and settled down with a wife in Ecclefechan. There were early signs of mental instability. After the failure of a business in Dumfries he turned to drink and attempted suicide. He embezzled money from the Useful Society, whose Treasurer he was, and made another suicide attempt. These may not have been

³² *Horrid and Barbarous Murder Between Glasgow and Lanark* (Glasgow: George Craig, 1797), Murray Collection.

³³ Henry Duncan, *The Young South Country Weaver; or, a journey for the Radicals; and Maitland Smith, the murderer, a true narrative*, 2nd ed. (Edinburgh, Waugh & Innes, 1821)

³⁴ *Ibid.*, Preface.

serious attempts. On one occasion he was restrained from jumping into the river Nith and on another from hanging himself by a frail rope. In the end he turned his violence towards a stranger, with whom he had fallen into conversation as they walked. The motive was robbery. In prison he became extremely agitated. Given this history, his counsel was of the opinion that 'an attempt might with some probability of success, be made, either to prove him insane, or to invalidate the indictment.' It was not to be. Maitland Smith was sentenced to die.

The Reverend Duncan met him in jail. His approach to Smith's hopes of forgiveness and mercy would have given heart to David Haggart's spiritual critics. On first meeting Smith, the Rev. Duncan quickly concluded that his enthusiastic religious feelings and hopes of redemption were not enough to justify his confidence in salvation. It seems that he had become very religious. But although he welcomed this, Duncan could not say 'whether these hopes were real or delusive.' It would, he said, be impious to limit the mercy of God 'but still it must be remembered that he was repenting at the foot of the gallows, and had no opportunity of trying the extent of his Christian graces in the intercourse with the world.' He left this solemn warning :

The procrastinating sinner should remember this, "In the pardon of the thief upon the cross, there is *one* instance given of the efficacy of a death-bed repentance, that nobody might despair; and there is *but* one, that nobody might presume."³⁵

There was no invitation here to consider how exciting a life of crime might be if a reader was minded to break society's rules. McKean and Smith were strange, unstable men and possibly had psychiatric histories. They were fascinating because they

³⁵ *Ibid.*, p228.

represented the horrors on the dark side of the human mind, where torment and alienation awaited transgression.

It had, then, been a long time since rogues and highwaymen were popular or even the subject of new legends in literature. And then came David Haggart, with his account of an exciting life told in a language and a tone that mocked the moral values of some readers and appeared to incite others to imitation. Moreover, there was another criminal biography, literally at the printer's awaiting publication, which threatened even greater mockery of Edinburgh citizens. So tempestuous was the reaction to Haggart's *Life*, however, that it was held back for a few months pending alterations before it published in 1822. It was the incomparable *Memoir of the life and trial of James Mackcoull, or Moffat*.³⁶ At 317 pages, it was by far the longest criminal biography to date from a Scottish printer and it told the story of a man whose audacity and effrontery made David Haggart look like the very small-time crook he was. Mackcoull's *Memoir*, however, was told in the third person to avoid making him attractive, despite the fact that over the many years he was in the public eye, he had drawn quite a following of admirers who enjoyed watching him make a monkey of the law.

Mackcoull was a member of a family of villains with extensive London underworld connections. Born in 1763 of an unblemished father and an 'unprincipled' mother, it seems he was an accomplished thief and liar from an early age. He arrived in Edinburgh in 1805 and took the name 'Moffat'. He came to be known to the police as a pickpocket and thief, and a receiver of stolen goods, operating from behind an

³⁶ Anon., *Memoir of the Life and Trial of James Mackcoull, or Moffat, who died in the county jail of Edinburgh on the 22 December 1822* (Edinburgh: Printed for John Anderson, 1822).

apparently legitimate tanner's business. The crime for which he became notorious, however, was Scotland's equivalent of the Great Train Robbery. He and two accomplices robbed the Glasgow branch of the Paisley Union Bank of £20,000 in 1811. It took the best part of a decade to convict him of this crime, not because he was on the run, like young Haggart, but for quite the opposite reason. In March 1813, in the course of one of the many investigations of his part in the robbery, he claimed to have been 'most illegally and unjustly apprehended by Mr James Denovan, the police officer at Leith' and taken before a magistrate who divested him of £991 found on his person. The money, thought to be part of the heist, was not returned to him when he was released without charge and it was subsequently handed over to the Bank. What else could an honest man do but sue the Bank and sundry others for the return of the money?

Mackcoull brought a series of civil cases in the Court of Session in Edinburgh, lasting for nearly eight years and adding up to an acute embarrassment to the institutions of the law. There was no doubt whatsoever that he had robbed the bank. Mistakes were made, however, in the original police work and in the attempts to bring him to court. Mackcoull fled to London immediately after the robbery and organised the assistance of a 'fence', Bill Gibbon, to launder the money. Before managing to complete this, however, he was traced by Bow Street runners, who had caught his accomplice, Huffy White. Complex negotiations between the Bank and Mackcoull ensued, brokered by a Bow Street man by the name of Jack Sayer. A curious deal was struck. In return for an agreement that his accomplices would be transported rather than hanged, and that some of Mackcoull's own past indiscretions be 'forgotten', he would give the money back to the bank. In the event, when his wife appeared with a little

wicker basket full of the money to be returned , it contained only £11, 941. Mackcoull was arrested and returned to Scotland heavily ironed, but the case against him collapsed, amazingly for lack of proof, and he was released. This left him free, with a lot of bank notes left over to launder by exchanging them for London bills. It was while he was doing this under an assumed name that he was recognised by the policeman, James Dcnovan, and although this arrest also failed to lead to prosecution, he was divested of the money in his possession. Here was a man who had no need of David Haggart's skills as a prison escapologist. He became an expert in using the law to tie itself up in knots. Freed, he thought, from the threat of criminal charges, he turned his mind to his long series of civil suits against, amongst others, the Paisley Bank.

For eight years, he strutted the streets around Parliament House. At the end of a day in court, he would treat his friends to generous amounts of drink and regale the company by poking fun at Scots baillies and lawyers. At the end of a session he would return to London for the break:

At the end of every session, Mackcoull went regularly to London by sea, and returned in the same manner when the court met. On these occasions he was to be seen every evening in Blakeman's, surrounded by trades journeymen and apprentices, by whom he was looked upon as a little king.³⁷

He entertained his admirers by making fun of the legal establishment, and sketching their characters 'with the most ludicrous names and epithets that could be devised'.

As his case headed towards a dramatic conclusion in 1820, his path must have almost literally crossed with David Haggart's. That summer, in July, David made his first

³⁷ *Ibid.*, p.176.

High Court appearance. In May, James Mackcoul finally lost his civil case and the evidence produced in that case was sufficient to prosecute a successful criminal case against him in the High Court a month later. He was sentenced to hang. The cocky young thief and the bank robber were linked by another experience. Henry Cockburn, who defended Haggart unsuccessfully in his murder trial in 1821, was the successful counsel for the Paisley Bank when Mackcoul was finally thwarted. Mackcoul's behaviour in court was far more outrageous than Haggart's, which had consisted only of leaning back eating confections. As Cockburn spoke, he aggressively invaded his personal space, staring at him and causing the advocate to complain, 'My Lords, I cannot go on unless this man is ordered to another part of the court-he is interrupting me.'³⁸

A biography of this man was sure to sell. In addition to making a fool of the law and the establishment for many years, he had now also become a suspect in a famous unsolved Edinburgh murder. William Begbie, porter to the British Linen Company's Bank, was murdered in the Bank Close in Nether Bow and robbed of £5,000 in November 1806. Nine months later three workmen found some of the stolen banknotes hidden in grounds nearby. The murder had seized the public imagination and although a number of suspects had been interviewed no one was prosecuted. Interest in the mystery remained high and there was much speculation among literary men, including Sir Walter Scott.³⁹ Denovan's investigation into Mackcoul's affairs

³⁸ *Ibid.*, p.206.

³⁹ As late as 1827, at the Theatrical Fund Dinner when Scott revealed that he was the author of the *Waverley Novels* he jokingly urged another guest to confess to something...like the Begbie murder. See Thomas De Quincey, 'On Murder Considered as one of the Fine Arts' in David Masson, ed., *The Collected Writings of Thomas DeQuincy* (Edinburgh: Adam & Charles Black, 1890) vol. xiii p.50.

had raised the possibility that he might be the culprit.⁴⁰ Interest in reading more about him grew and grew.

The reception given to David Haggart's *Life*, however, was a powerful cautionary tale about seeming in any way to give impressionable readers cause to take Mackcoull's part in mocking the law. The anonymous biographer did this in a number of ways, to the extent that, in William Roughhead's opinion, he spoiled the story by making it anaemic.⁴¹ First, the language was altered. The original text made full use of the 'flash' language so much at the heart of the row over David's *Life*. Mackcoull had cut his criminal teeth in London's underworld and, as a member of 'the Fancy' he used much of its vocabulary. It had to be excised, the preface explained, because of what happened to another book, and this held up publication for a few months:

A small volume on a similar subject at that time appeared, wherein the several incidents were expressed in a kind of local slang peculiar only to thieves, and which gave much offence to a respectable class of readers; The compiler of the following sheets has, therefore, availed himself of the advice of his friends, and now offers his work to the public in a new shape.⁴²

The editor went on to express the same sense of disappointment, almost of apology, which frequently accompanies the work of a translator who feels that something has been lost from the original. Just as the artisan has his technical terms, he says, the sailor his nautical phrases and the lawyer his scraps of Latin, so the 'daring freebooter' has his flash. Its use was not without difficulty, however, and he explained further:

⁴⁰ The evidence was circumstantial, and, according to Cockburn, not wholly convincing. Cockburn, *Memorial* p. 228.

⁴¹ William Roughhead, *The Riddle of the Ruthvens and Other Studies*, (1919, reprint. Edinburgh: Grant & Murray, 1936) p.320.

⁴² Mackcoull, *Memoir*, Preface.

But even the flash, like more polished tongues, suffers by translation; for it has been found impracticable to transfer the spirit and effect of the original. Those, therefore, to whom some parts of the history may seem flat or uninspired, are intreated [sic] to consider them as mere translations from a language which has already too many teachers.⁴³

The biographer used other techniques to make it clear to readers where their sympathies ought to lie. Thus Mackcoull is not 'I' but 'our hero', which keeps him at a suitably judgmental distance. He avoids detailed descriptions of how to pick a pocket on any pretence of public education. We cannot calculate the effect our 'little work' may have on readers, he explained, 'neither can we calculate the mischief that may ensue from unveiling to the depraved, the dissolute, and the idle, the deeply-laid schemes and stratagems of a daring, dexterous, and successful depredator.'⁴⁴ From the one example of technique which is included in the *Memoir*, one might wonder if this was such a danger. Mackcoull, like Haggart liked to attend the theatre. He would first eat raw onion and then strike up a conversation with a member of the audience, who could be guarantee to turn his head away sufficiently to avoid noticing his pocket being picked. The self censorship trumpeted by the book's editor had the undoubted tendency to treat readers as quite unable to stop themselves falling over a moral precipice on the least acquaintance with anything clever or amusing in the life of an offender. They needed to be protected from themselves. Pandering to the sensibilities, not of the reader, but of those who would decide what was best for them, was a mistake. 'Thus,' wrote Roughead, 'something less than justice has been done to

⁴³ Ibid.

⁴⁴ Ibid., p.11.

Mackcoull's memory; but even as emasculated by this queasy editor his robust figure stands out in proportions sufficiently impressive.⁴⁵

The last of the biographer's strategies for treading the difficult line between satisfying readers' interest without sacrificing moral clarity was one that rendered readers a better service. The *Memoir* was about James Mackcoull but another hero emerged in its telling. This was Denovan, lately superintendent of Leith police and later the detective whose patient, intelligent work led to Mackcoull's conviction. Very little is known about him. Henry Cockburn knew him at school and certainly came into professional contact with him when he represented the Paisley Bank against Mackcoull.⁴⁶ Denovan first made Mackcoull's acquaintance in 1805 and this was the beginning of an even longer relationship than that between David Haggart and Dumfries sheriff-officer John Richardson. At the time of the Paisley bank robbery in 1811, it fell to a Mr Walkinshaw of Glasgow and an unnamed Edinburgh policeman to pursue the robbers across the border and on to London. They made contact with the Bow Street runners and together they tracked down one of the accomplices, Huffey White. The investigation thereafter was badly mismanaged and evidence was allowed to evaporate while the Bank negotiated a poor deal with Mackcoull, brokered by a Bow Street runner who stood to benefit from reward money. Denovan's role during these years was limited. It was many years later, in 1820, long after the failure of bungled attempts to prosecute Mackcoull and while his civil suits were proving such an affront to Edinburgh lawyers and magistrates that Mr Denovan was prevailed upon to investigate the case.

⁴⁵ Roughead, *The Riddle of the Ruthvens* p.320.

⁴⁶ Cockburn, in his *Memorial*, p.228, described him as 'an old High School fellow of mine and a clever man.'

After so many years there was a danger that the trail had gone cold. Denovan, however, was meticulous and intelligent. His *Journal*, appended to the *Memoir*, documented his successful hunt for the evidence. He set out in January snow to retrace the route Mackcoull and his two accomplices had taken after the robbery. His journey took him to Berwick on Tweed, Morpeth and Newcastle, tracking down witnesses and taking statements. Some key people had died by now and others had moved away. Undeterred, he found Huffey White's widow and persuaded her to come to Edinburgh to give her testimony. Crucially he brought Bill Gibbons, the flash banker, to give evidence, and locksmith John Scoltock who supplied the keys for the robbery.⁴⁷ Patience and persistence triumphed. After Mackcoull lost his civil case he was successfully prosecuted for the robbery in the High Court.

When historians have come to trace the origins of the detective story, all the talk is of Eugene Francois Vidocq (1775-1857).⁴⁸ His fame is deserved and rests on more than one well-solved case. He was once a criminal himself, and it was while he was a fugitive from the law that he first offered his services to the French police as a spy and informer. He went on to become the first director of the Paris Surete, or security police, where his crime-solving abilities became a legend. In part his success rested on his recruitment of other criminals with insider knowledge, but it was also based on his penchant for systematic inquiry. He is credited with having introduced modern record-keeping, using ballistic science, keeping statistics and developing surveillance techniques. Novelists Victor Hugo and Honore Balzac modelled detectives on him and his own ghosted *Memoirs*, published in France over the years 1828 and 1829, and translated into English by David Haggart's acquaintance George Borrow, exaggerated

⁴⁷ Mackcoull, *Memoir* pp42-61.

⁴⁸ Stephen Knight, *Crime Fiction, 1800-2000: Detection, Death, Diversity* (Basingstoke: Palgrave Macmillan, 2004) p. 23.

his exploits sufficiently to establish his reputation as beyond doubt the prototype detective.

Denovan did not leave administrative systems behind and he was clearly so lacking in Vidocq's charisma that today he is forgotten while the Frenchman has societies named after him. Mackcoull's biographer did accord him a heroic status and was clearly in close contact with him. At several points in the narrative he took the opportunity to lecture Scottish policemen about how they ought to keep better records and communicate more effectively with Bow Street when they encountered a dangerous English malefactor.⁴⁹ It raises the possibility that Denovan was closely involved with the writing. Even if his contribution was limited to his *Journal*, however, he achieved something to entitle him to a place beside Vidocq. In it, he linked the business of being a sleuth to the telling of something like a 'who dunnit', with a central character and a triumph of good over evil. Denovan was not as interesting as Mackcoull, but it was the beginning of a shift in emphasis towards a genre which would see the birth of the detective as the bearer of morality, the solver of puzzles and ultimately the hero with whom a reader might identify.

In 1907, Mackcoull was the subject of a novel based very closely on the *Memoir* and Denovan's *Journal* and it is surely beyond coincidence that the pseudonym chosen by its author J.E.P. Muddock (1843-1934), a detective himself, was 'Dick Donovan'.⁵⁰ There was of course no one single detective who inspired the genre, and in Scottish literature Conan Doyle's creation of Sherlock Holmes builds on the shoulders of a development in literature and life which had many earlier practitioners.

⁴⁹ Mackcoull, *Memoir* p. 65. He even included a page from the prison governor's records in Chester Castle to show how it should be done, p.76.

⁵⁰ Dick Donovan, *The Shadow of Evil* (London, 1907).

Denovan deserves a place of prominence there, however. Readers of Mackcoull's *Memoir* would sleep more peacefully in their beds when he was on the case. It was a message much to be preferred to the idea that crime was exciting.

David Haggart's *Life* had made Mackcoull's duller than it need have been because the biographer reacted too obligingly to the climate of disapproval. He altered the language and the text and infused the story with moral lessons. It did not please William Roughead, who retold the story but ended with this comment on Mackcoull's first biographer:

I premit the moral inferences drawn by his biographer which seem to me to be superfluous as the painting of lilies.⁵¹

The difference between readers and criminals?

If there was anything which could be called an 'aetiology' of crime as the eighteenth century turned into the nineteenth, it was that everybody was at risk of slipping off the edge of the moral precipice if they did not attend to the rules. Bad parenting, lack of religious education, and Sabbath breaking were often the first steps on a slippery slope which led to bad company, gaming, drinking and finally delinquency and crime. By this reasoning David Haggart could have been any mother's son and hence a suitable case to act as a warning to others. The paradox was that the image promoted by his book was that he was a singular, exceptional individual. Should the reader identify with him or distance himself? James Mackcoull posed no such problem, not

⁵¹ Roughead, *The Riddle of the Ruthvens* p.331.

only because of the deliberate distance his biographer created between himself and his subject but because of Mackcoull's strange death. While a crowd had gathered to see pretty young David Haggart pray fervently and die bravely, Mackcoull's death sentence was never carried out. In prison he became demented. He flayed about, ground his teeth and was consumed by terror. He did not pray, and 'though not an open infidel, his mind was alienated from God.'⁵² Mackcoull died in his cell on 22 December 1820. The literature had left him at some distance from the human race.

Haggart's *Life*, then, was a weathervane for what was happening to the reading and writing of crime literature. Three changes overtook criminal biography in the years that followed, all of which had a tendency to create distance, and to feature the lives of their subjects as 'Other' or alien to their readers. The first was that the story 'told by himself' or 'taken down from his own lips' by a scribe or editor became a relative rarity amongst biographies other than in short broadsides. Secondly, crime attracted the attention of some distinguished men of letters in the 1820s, among them James Hogg, Sir Walter Scott and Thomas DeQuincy, who were interested in character and social context rather than predictable slippery slopes. Lastly, 'scientific' evidence of the 'otherness' of 'the criminal' arrived, very much as the companion of David Haggart.

However much or little of the *Life* was actually written by David Haggart, it was his own story, not formatted by a hack as broadsides were, or told by a nervous third

⁵² From the broadside *Life and Memoirs of James Moffat* (one of Mackcoull's aliases) NLS Broadside Ry iii a 2(9). Mackcoull's biographer in the *Memoir* describes his awful death, marked by weight loss and terrors. DeNovan believed that these had something to do with the fact that he was plagued by the knowledge that he had murdered Begbie. He visited him in jail and asked him some questions about his whereabouts at the time of the murder, whereupon he rolled his eyes and 'as if falling into a convulsion, threw himself on the bed.' p.276. Other rumours were that his wife had administered poison to him in his cell.

party, as Mackcoull's *Memoir* was. There were only two noteworthy long biographies in what remained of the decade but both were exotically 'other', unlikely to cause either offence or imitation and both were by or about much better educated men. They were not 'unvarnished tales' taken down 'from their own words'.

Malcolm Gillespie was an excise man in Aberdeenshire with a Scotland-wide reputation for hunting down smugglers.⁵³ He was tried for forgery and hanged in 1827. His anonymous biographer wrote quite sympathetically, believing the true culprit to have been his clerk and co-defendant George Skene Edwards. He also wrote with a literary flair unmatched by any contemporary biographer. This is truly an adventure story, a gripping read and an interesting social document about smuggling in the north-east. In this case, the readers who might have been moved to sympathise were not the lower orders who were thought to be too impressionable to read Haggart's *Life* without wanting to imitate him, but the respectable men who had known Gillespie as a fearless and vigorous upholder of the excise laws. The Hon. William Gordon, MP for the county of Aberdeen was among those who supported a petition for mercy.⁵⁴ The social order had nothing to fear from the sympathy of such men.

Paradoxically, there was no chance of inciting the lower orders to identify with this gamekeeper turned poacher. Too many ordinary folk had lost their whisky to him.

⁵³ Malcolm Gillespie, *A Report of the trial of Malcolm Gillespie and George Skene Edwards, for forgery together with the life and dying declaration of Malcolm Gillespie written by himself* (Aberdeen, 1827)

⁵⁴ Lord Pitmilny, in passing sentence referred to this sadness that someone who had frequently appeared in his court on the side of the law should end up on the other side. It was a warning, he said that 'persons must not trust to talents, however great to save them from conviction.' Gillespie, *Report* p54.

The Crown counsel, Archibald Allison, was applauded as he sat down after summing up to the jury, causing Gillespie's counsel Alexander McNeill to object:

This is the first time in my life, that I have ever heard, in broad, fair, and honourable Scotland, of such expressions escaping from an assembly where life or death was at stake. But, Gentlemen, it is an echo of a feeling in the country, universal, deep, and strong, against the panels, and which seems incapable of being staunched but with their blood.⁵⁵

Gillespie was certainly alien or 'other' to the crowd in court, even if he was a familiar of the establishment, and their reaction was quite spiteful, especially at a time when hanging for forgery was becoming rare. Gillespie was the last to hang in Scotland for this offence. Had he been hanged as a smuggler, rather than an errant excise man, and celebrated in a well-told, cheap, unvarnished biography of the old style, it might have been a more worrying moral example to the poor.

Charles Campbell, our last biographer, was also unusual, in his case because of the verdict in his 1826 murder trial. He was found 'guilty but insane' of the murder of his sweetheart and suffered long-term imprisonment in Glasgow. To raise money to 'mitigate the sufferings' of this state, he wrote his *Memoirs*.⁵⁶ His style and history were very different from Haggart's. He was a cotton spinner with literary ambitions and pride in his acquaintance with the poet Robert Tannahill. He wrote in the most verbose style, as for example when he described how he 'was at length seized with an obstinate quotidian ague.' What took his book into a second edition very quickly was its combination of adventure story and journey into madness. In 1812 he went to sea and spent the next few years in the West Indies where he had interesting adventures and formed a dim view of slavery's cruelties. But it is his second journey, into

⁵⁵ Ibid., pp53-54.

⁵⁶ Charles Campbell, *Memoirs of Charles Campbell, at present prisoner in the jail of Glasgow...written by himself*. (Glasgow: Duncan, 1828)

madness, also documented in the full account of his trial that accompanies his *Memoirs*, which provides surely the most literate insight into paranoia in any criminal case of its time and accounts for such a strong public interest.⁵⁷ Could he really have killed Sarah McVicar while she danced a reel in a strange house and not know about it until 'told that the work was mine'? The disordered mind was a strange country, but it was not reached by way of Sabbath breaking and bad company. His *Life*, like Gillespie's, was a safe read.

The decade that opened with David Haggart's *Life* ended of course with *The Trial of William Burke and Helen M'Dougall*.⁵⁸ It was a long way from the Dumfries jail to the West Port. A delinquent petty thief who bungled a jailbreak and hit the turnkey too hard over the head belonged to a much more inclusive, less mesmerising seam of humanity than the serial killers who supplied corpses to an Edinburgh anatomist. It is hardly surprising that a cottage industry grew up around Burke and Hare rather than Haggart. Not all crimes, nor all perpetrators, were of equal public interest. Burke wrote a confession but not an autobiography, and although the market was flooded with information and disinformation about the Irishman and his accomplices, it was not digested for long years afterwards.⁵⁹ Meanwhile the public feasted on the grotesque street literature and frightened itself with the horrors that could happen to anybody but was almost unthinkable to be done by anybody human like them. It was a process of dehumanisation that the better educated who read *The Trial* were happy to

⁵⁷ Campbell benefited from some superb advocacy by his counsel, Russell, who brought forward many witnesses to attest to Campbell's strange behaviour over months, and he was able to win an admission from the Crown's leading witness, Dr. Corkindale, that although he found Campbell lucid in the police station after the crime, it was possible he was insane at the time of the murder. Lord Meadowbank complimented him on his defence.

⁵⁸ *The Trial of William Burke and Helen M'Dougal and its Supplement* (Edinburgh: Printed for Buchanan, Hunter & Stevenson, 1829)

⁵⁹ Owen Dudley Edwards, *Burke & Hare* 2nd ed., (Edinburgh: Mercat Press, 1993) is the best analysis and reviews the many popular and literary works.

promote. The case had reached into the comfortable world of university medical men and implicated them. The lid was best kept on it by demonising these inhabitants of the West Port as depraved 'Others', Irish, poor, inhuman. Henry Cockburn knew better, for he had represented Helen Macdougall:

Except that he murdered, Burke was a sensible, and what might be called a respectable man; not at all ferocious in his general manner, sober, correct in all his other habits, and kind to his relations.⁶⁰

In February 1827, *Blackwood's Magazine* published a strange essay by Thomas DeQuincy, which seemed to admit that there could be some aesthetically pleasing quality to a murder. The essay, 'On Murder Considered as One of the Fine Arts' looked to an improvement in critical appreciation of a fine murder:

People begin to see that something more goes to the composition of a fine murder than two blockheads to kill and be killed, a knife, a purse and a dark lane. Design, gentlemen, grouping, light and shade, poetry, sentiment are now deemed indispensable to attempts of this nature.⁶¹

Unsurprisingly, the murder of Thomas Morrin was not included. More surprisingly, perhaps, the murder of Thomas Begbie was. He was the porter of the British Linen Bank who was robbed and murdered in a narrow court off Edinburgh's High Street in 1806, and what seemed to entitle it to the accolade was the fact that it had been executed in the light of afternoon rather than under the cover of night's darkness.⁶² Mr Denoven, the detective who, as noted earlier, unravelled the crimes of James Mackcough many years later, believed that he was also Begbie's murderer on the strength of rather slim circumstantial evidence. Literary circles, however, continued to

⁶⁰ Cockburn, *Memorials* p.458.

⁶¹ In David Masson, ed. *Collected Writing of Thomas DeQuincy* xiii p.12.

⁶² Given the criteria just cited and the fact that it was committed in a dusky late November afternoon it does not seem to merit artistic mention.

be intrigued by it. In 1839, DeQuincy wrote a second essay for *Blackwoods*, which added the work of Burke and Hare to the gallery of fine murders.⁶³ Inclusion in this illustrious roll of murders was not, however, an honour which could do anything other than remove their perpetrators ever further from common humanity.

Most intriguingly of all, James Hogg dared to dig into the mind of a young man who believed himself to be predestined to be one of the elect, a destiny which could surely not be altered, even by his perpetrating some astonishing criminal acts, culminating in the murder of his brother. *The Private Confession of a Justified Sinner* touched a raw nerve.⁶⁴ Following the style of a criminal biography it reached, not into the jail where James Boswell's sheep-stealing client and 'unjustified' sinner, John Reid, had uttered his belief that his fate was foreordained and where David Haggart wrote that a man born to hang would not drown, but into the church pews to test the logical limits of Calvinist, or more correctly Antinomian doctrine. This was the extreme view favoured by the Reverend Robert Wringhim, father of Hogg's justified sinner, that human actions, good or bad, could not change God's plan for saving the elect and damning all others.

What choices did a man really have? It was a question not only for theologians but for a new breed of men carrying measuring tapes rather than Bibles. In his last days, when David Haggart was surrounded by ministers of religion, it may have been a welcome diversion to have a visit from George Combe, though some would have called it a penance. In 1821 he stood at the beginning of a long and controversial

⁶³ Ibid., pp. 52-69.

⁶⁴ James Hogg, *The Private Memoirs and Confessions of a Justified Sinner; Written by Himself*, (1824; Edinburgh: Canongate, 1994). Hogg followed the convention of contemporary criminal biography, beginning with an explanation of how the original came into his hands, and setting an objective, moral tone in the telling of his tale before introducing the confession.

career as a phrenologist and he was very interested in the young prisoner. While only God knew what made the elect 'other' (better than others), Combe believed there was a scientific way of knowing what made offenders not only 'other' (worse than others), but identifiable to the trained eye. It was their bumps. We turn to David's cranium and the man who measured it.

CHAPTER FOUR

THE CRIMINAL NOT THE CRIME: THE PHRENOLOGIST'S VERSION OF DAVID HAGGART

On 29 May 1821 David Haggart was in jail awaiting trial when he received a visit from an Edinburgh man who would not find it instructive to read either the court reports, the droning sermons of Calvinist preachers or even Haggart's *Life* to understand what brought this young man to the condemned cell. All he needed was a pair of measuring callipers and access to Davey's head, the contours of which would reveal how nature had endowed him with the propensities which, under certain circumstances, could lead him to steal and kill. George Combe was thirty- three and already a leading phrenologist who carried the torch for a controversial idea which began in Vienna with the publication of the anatomical discoveries of Franz Joseph Gall(1758-1828) and his assistant Johann Caspar Spurzheim(1776-1832), purporting to show how the human brain consisted of a congeries of different organs, each of which was the locus of a 'faculty' and each of which revealed itself externally on the surface of the skull.¹ In fact it was a long way, full of speculation, from Gall's anatomy table to the drawing rooms and mechanics' institutes of Edinburgh where a battle royal was fought in the 1820s to establish the credibility or otherwise of a whole philosophy, indeed a practical guide to life, which Combe had grown from the seeds of European phrenology. Along the way there were many skirmishes between

¹ Franz Joseph Gall and Johann Caspar Spurzheim, *Anatomie et physiologie du systeme nerveux en general, et du cerveau en particulier, avec observations sur la possibilite de reconnaitre plusieurs dispositions intellectuelles et morales de l'homme et des animaux par la configuration de leurs tetes*, 2vols., (Paris: 1810-1819). Gall claimed to have reasoned inductively, from having observed that acquaintances who had strong character traits also had particular skull shapes, which must take their shape from the organs of the brain regions beneath.

the established intellectual community and the upstart phrenologists. Davey Haggart's head was of great significance to the two sides.

Davey Haggart and George Combe had something in common, in addition to being lanky, controversial Edinburghers. They were both greatly interested in leaving an account of their lives to posterity and being remembered as great men. Combe was quite honest about how, as a child, he became aware of a desire to 'obtain distinction by doing good.'² It was not obvious to him at first how he would do this, lacking as he was in the talents with which others were endowed. Later, the road ahead became clear and amongst the first entries in his diary was this:

A desire of fame may be one mark of a mind that deserves it. I have taken the imagination that I have powers of mind sufficient to write some useful book on human nature [...] I may be able to do something.³

Indeed he did. His *Constitution of Man*, first published in 1828, and of which more will be said later, outsold Darwin's *Origin of the Species*, and made him for a while one of the most famous Scotsmen of the early Victorian age, though it would be difficult to find a schoolchild in Scotland today who had ever heard of him.⁴ After phrenology was trounced in the marketplace of ideas and relegated to the status of a seaside pastime, its great Scottish champion was all but forgotten.

That would have disappointed him, since he took care to leave a mountain of materials for future historians. His widow, Cecilia Siddons Combe, 'cherished the

² Charles Gibbon, *The Life of George Combe* 2 vols. (London: Macmillan, 1878), Vol 1 p.60.

³ Ibid., p.73, quoting Combe's diary entry, 1811 when he was twenty-two.

⁴ George Combe, *The Constitution of Man: Considered in Relation to External Objects* (Edinburgh: Anderson, 1828). This was a book which did not depend on belief in phrenology, but was about man's place in relation to natural laws, how to live in harmony with them, and the consequences of breaking them. It was published continuously up to 1899. It was a Victorian best-seller. Phrenology stopped being taken seriously in the early 1840s. It enjoyed a renaissance in the 1860s when the brothers Oscar and Lorenzo Fowler came to Britain from the U.S. with a popular form of 'bumpology'.

idea of seeing her husband's biography' and in 1862 wrote sixteen pages of adoring reminiscences that she hoped would introduce such a work.⁵ Finally, novelist Charles Gibbon obliged. Whilst Davey's *Life* was a tale spun from memory and contained in a slim volume, George Combe's papers threatened to overwhelm his biographer.

Gibbon wrote of his subject, 'Few men have left such ample materials for a biography'. He threw nothing away:

From 1820 he kept copies of all his own letters; these occupy eleven large quarto volumes of 700 to 800 pages each, and six smaller volumes which he used when travelling. In addition, he left thirty journals, in which he recorded the chief events of his life, the ideas that occurred to him for use in his works, and, occasionally, extracts from the books he read which had any bearing on the subjects of his thought.⁶

The man's ego demanded a lot of shelf space. Combe's *Life* was thus a daunting task and has not been attempted by a modern biographer.

Like Haggart, Combe intended to write his own *Life* and at the age of seventy he began the task. He had, however, only covered the first twenty-eight years when he died. The fragment of autobiography he left affords further comparison with Davey, covering as it does a youth spent in the same city, though it is a life recollected in the face of impending death in serene old age rather than on the gibbet the next morning. George Combe had the benefit of a much lengthier education than Davey, though not in his own eyes a much more useful one. Davey was quite satisfied both with his own achievement, as class dux, and with the very basic literacy and numeracy he acquired. George was not at all satisfied with his education. After attending parish school, he went on to the High School of Edinburgh in 1797, where he endured mindless daily recitations of Latin administered by a less than gifted teacher, Mr Luke Fraser.

⁵ Gibbon, vol.2 pp 372-374.

⁶ Gibbon, vol. 1 Preface, p.i. There is a collection of Combe's papers in the National Library of Scotland.

‘Torture’, he recalled ‘was a substitute for education.’ Looking back on his ‘five years of youthful life wasted’ at the High School, he often asked, ‘What is the use of this education? but never received a satisfactory answer.’⁷ His two years at Edinburgh University were also passed without enlightenment. He did not graduate, but left in 1804 to begin training as a writer to the signet, an experience that left him uninspired.

By the time that Combe evaluated his own education, however, he did so after having spent many years thinking about education, and studying schools in America and at home.⁸ In the company of other reformers he came to progressive conclusions. Give children lots of fresh air and exercise. The school day should be short, to avoid overtaxing young brains. Teachers should reward their pupils, not punish them, and they should work at understanding children as individuals. Arouse their interests by doing rather than theorising. Throw away the Latin books and do practical things. It was an educational prescription that could perhaps have changed the lives of both Davey Haggart and George Combe for the better but it was not on offer to either in Scotland’s capital of the Enlightenment. It would be 1848 before such a school was set up in Edinburgh by William Mattieu Williams.⁹

Family life affords another comparison. George Combe’s family was not rich but it was comparatively better off than Davey Haggart’s. His father was a brewer and the Combe family, with its thirteen children, lived at Livingstone’s Yards, close to the

⁷ The autobiographical fragment is printed in Gibbon, vol 1pp1-68, p.49.

⁸ From the 1830s, education was one of his most important concerns. His lecturing tour of the United States in 1839 brought him into the company of a number of progressives, particularly Horace Mann, who was greatly taken with the Scot. and referred to his *Constitution* in official reports. Combe believed America had the finest educational system anywhere. See John D. Davies, *Phrenology, Fad or Science: A Nineteenth Century Crusade* (New Haven and London: Yale historical publications, 1955), Ch.6.

⁹ Williams, like Horace Mann, named his son after Combe. The school taught social sciences, music, art, physical education, English composition and the elements of mechanical science. David De Giustino, *Conquest of Mind: Phrenology and Victorian Social Thought* (London: Croom Helm, 1975), p.180.

south-west bank and rock of Edinburgh castle where Davey played as a boy. Close to the public drains and attached to the brewery, it was crowded and unhygienic. 'A more unhealthy residence can scarcely be conceived', Combe wrote.¹⁰ But the family had servants, and their own business, which gave them a comfort unknown to the Haggarts in their Canongate home. They had enough left over to be 'both charitable and hospitable to a commendable degree.' Davey Haggart had little to say about his upbringing and no complaint whatever to make against his parents. Though we know that he left home aged ten for fear of his father's discipline, his father appears throughout his *Life* as a man struggling and failing to keep his son out of trouble. His mother died 'of a broken heart', but Davey brought no other insight to bear. By contrast, George Combe's reminiscences of family life seem startlingly judgmental.

Very little of what Combe remembers of his father prepares the reader for the negative evaluation that follows. His father never hit him, an abstinence which was surely appreciated in a home full of energetic youngsters. He worked hard to support his large family, and although he had an impressive intellect, according to his son a lack of education left him deficient in spelling and punctuation. He resolved that his own sons should get a better education. As to his mother, she was 'accomplished in every practical art of housekeeping.' Although illiterate in all but the ability to write her name, she could milk the cow, churn the butter, sew and spin, wash and cook. She was kind and well meaning in her attempts at parenting but made many mistakes which exacerbated George's weak physical constitution. 'Ignorance was the rock on which her kindest endeavours were wrecked', he concluded. It was not that his parents were lacking in good intentions, it seems, but that they were only as good as

¹⁰ Gibbon, vol 1 p.2.

they could be, given the design of their brains and the limited education they had received. Nonetheless George Combe could sound a little whinging about what they gave him. 'My only surprise is how I survived so much irrational treatment and stupid conduct.' His mother supervised the children's drilling in the catechism, and they were sent regularly to the West Church. His religious education was just as oppressive as his secular one and he summed up his childhood negatively:

Neither in church, nor school, nor in the family circle, was one solitary rational idea communicated to me concerning my own nature or the nature of men and things, or my own relationship to them..... There was neither within nor around me any atmosphere of consistency, goodness and truth.; but a constant conflict of emotions and ideas one with the other; and the world was chaos.¹¹

He wrote this, however, after a long career as a phrenologist and popular philosopher had given him a distinctive slant on the deficiencies of his upbringing and replaced the chaos around him with order and reason. Davey Haggart's perspective on his moral education was naturally shorter, more intuitive and less scathing. Unlike Combe he did not know how, ideally, he should have been brought up.

Both Combe and Haggart recount stories of 'bad' things they did as children, in each case involving animals. But which showed the greater propensity to become a criminal? Davey stole a bantam hen from an old widow in Stockbridge. Later he stole a pony from a farmer to take himself and a friend home when they tired themselves out in country exploits. Writing about Haggart many years later, in 1821, Combe saw these episodes in his *Life* as evidence of an early propensity to steal.¹² But what of his own boyhood? He loved his pet rabbits but failed to clean out their hutch conscientiously, merely covering the floor with fresh straw without removing the

¹¹ Gibbon, Vol 1, p.16.

¹² George Combe, *Phrenological Observations on the Cerebral development of David Haggart* (Edinburgh: Tait, 1821) pp. 42-3.

soiled materials. The mother rabbit killed her young repeatedly and the buck was savage. George's response to her 'infanticide' was that, 'true to the spirit of the age, 'I held up the slaughtered young before the mother's eyes and beat her well; but did not clean her bed.'¹³ In a second incident, this time in an act of supposed kindness, he moved the rabbits from the yard to a loft, to protect them from severe cold weather. The rabbits reacted badly to the change of address and became very sick. The buck became so miserable that he had to put him out of misery:

I took him out to the garden, tied him to a stake, and tried my skill in marking by standing at a distance of fifteen or twenty paces and shooting him with my pistol loaded with a single ball. The ball broke his spine, and he uttered a piercing scream.¹⁴

On behaviour alone it was not self-evident which of these two boys had the propensities to become the murderer and thief, which the phrenologist. The point was not altogether lost on George Combe and he was well aware that his 'kindness' in putting his rabbit out of his misery was spiced by 'a destructive feeling' and pride in marksmanship, seizing on the rabbit's sickness as an occasion to indulge them. Writing his *Life* at the age of seventy his insights into his own character were informed by the science of phrenology. It was not so much that he had looked into his own soul, as that he, too, had had his head examined and knew his weaknesses. He had also learned nature's rules and was no longer in ignorance of why the mother rabbit killed her young and why the buck got sick in the loft. He had placed them in circumstances that were 'at variance with their nature'.¹⁵ Now he understood why he had behaved as he did, why it was wrong and what he could learn from it.

¹³ Gibbon, vol 1 p. 27.

¹⁴ Ibid., p.28.

¹⁵ Ibid. The lesson he took from it was the very paradigm of his philosophy, 'without knowledge of the structure and function of a living organism, and its relations to the natural objects to which it was adapted and which influence its condition, the best intentions may inflict only suffering when pleasure is meant to be given; and that holds as true in the case of human beings as in that of rabbits.'

Davey Haggart was not equipped to undertake such a painstaking analysis of his own behaviour but George Combe turned up in his cell on 29 May 1821 and prepared to begin an examination that would reveal his true nature.

Battle positions: the Phrenologists and the Anti-phrenologists

Phrenologists were materialists. They believed that there was no mysterious duality between mind and body. The brain, made of matter, was the location of the mind. Uncontroversial as this conclusion is among modern neurologists, it was not universally accepted in the early nineteenth century and those who embraced it were often charged with atheism and radicalism.¹⁶ In addition, phrenologists offered three propositions about the brain that engaged the passions of scientists as well as clergymen and philosophers.

1. The brain consisted of many distinct parts, each of which was an organ of some innate special faculty. Gall named twenty seven. Spurzheim modified the list and added six more. George Combe counted thirty-five. The names of these organs included 'combativeness', 'secretiveness', 'amativeness', 'destructiveness', 'philoprogenitiveness', 'veneration' and 'ideality'.
2. Size mattered. The power of each faculty was proportionate to the size of the organs. It was not contended that the absolute size was important, but the relative size to other organs within the same head.
3. It was possible to ascertain, during life, the relative sizes of the organs by measuring the corresponding protuberances or enlargements on the external surface of the cranium.

¹⁶ Renee Descartes had developed the theory known as 'Cartesian dualism', to the effect that there were two separate substances, physical substance from which the body is made, and thinking substance, from which the mind is made. Later he acknowledged an intermingling between the two, and even a possible meeting ground in the pineal gland. The phrenologist contention that mind was matter thus seemed to deny a location for the soul. Combe was careful not to state his atheism in public and there were, at least in the beginning, many Evangelical churchmen amongst the ranks of the phrenologists.

As phrenology societies spread throughout Britain in the 1820s, audiences swelled to hear the defence of these ideas and the printed press worked overtime to publish an enormous volume of dispute and debate on the subject.

It is remarkable how much of this debate took place in Scotland. Edinburgh was the capital of phrenology and the site of some of the most important battles over the credibility of these propositions. Recently the home of the Enlightenment in Scotland, it was still, in the early decades of the nineteenth century, brimming with talents in medicine, literature and philosophy. The *Edinburgh Review* was 'fast becoming the Koran of the educated public.'¹⁷ Under its editor, Francis Jeffrey, it could be relied upon to test ideas in its prestigious public forum and denounce humbug where it was found. And this is exactly what Dr. John Gordon, Edinburgh anatomist and a former student of Dugald Stewart, did when he reviewed Gall and Spurzheim's work in June 1815. There was not, he argued, a shred of evidence on dissecting the brain that there were boundaries between any such 'organs' and their argument that the shape of the skull was moulded by this cerebral organisation was just as fallacious. Any suggestion that there was a relationship between the size and capabilities of the brain had long been disproved. It was, he said 'a piece of *thorough quackery* from beginning to end.'¹⁸ In 1816, an angry Spurzheim arrived in Edinburgh to refute Gordon in person. With a copy of the *Edinburgh Review* in his hand he demonstrated the superiority of his dissecting techniques and his rational deductions from them to a packed lecture theatre.

¹⁷Roger Cooter, *The Cultural Meaning of Popular Science: Phrenology and the Organization of Consent in nineteenth-century Britain* (Cambridge: Cambridge U.P., 1984), p. 24. The magazine had already published a scalding attack on phrenology by Thomas Brown, medical doctor and pupil of Dugald Stewart, in *Edinburgh Review*, 2(1803), pp147-160.

¹⁸ John Gordon, 'The Doctrines of Gall and Spurzheim,' *Edinburgh Review*, 25 (1815), pp227-268,

Ironically, until then, phrenology looked set to fade into obscurity. Franz Joseph Gall was regarded as a distinguished anatomist, with some real scientific achievements to his credit. His reputation entitled him to a serious hearing on phrenology and he got it at first, though only briefly, in Europe. By 1815, however, it was clear that his ideas had not been well received in Britain and that a quarrel between Gall and his assistant Spurzheim had not only led to a rift between them but had further endangered the credibility of their science. Spurzheim was the more speculative of the two and had already begun to make more character divinations and moral implications than Gall thought warranted by the state of their knowledge. The brand of phrenology he brought to Britain when he arrived in 1814 was contentious and lacking in serious support within the scientific community.¹⁹ Ironically, Dr John Gordon's fierce attack on it gave it new life. Hundreds of people turned up to hear Spurzheim refute him and amongst them was George Combe. Until that evening he had been, like most educated people, sceptical of phrenology's claims. Watching and listening to Spurzheim, a light was turned on in his head and he left knowing which of the combatants was right and what he must do with the rest of his life.²⁰

Combe began writing and lecturing immediately. Within a very few years he would become the most important publicist and expounder of phrenology in Britain. He and his brother Andrew, a medical doctor and an equal enthusiast for phrenology, founded the Edinburgh Phrenological Society in 1820, and worked with groups around Britain

¹⁹ Gall was first to distinguish between the white matter of the brain, consisting of nerve fibres and the grey matter which forms the cortex. His views on phrenology, or craniology as it was called then were seen as dangerous to religion, however and he was forced to flee Vienna in 1805. He lectured in Germany and the Netherlands. Spurzheim joined him in Paris, but relations between the two deteriorated when Spurzheim began to apply craniology to contemporary social issues and to dabble in character analysis. By 1814 their relationship was at an end. In that year Spurzheim came to Britain, where, until then, there had been little but criticism, as in Brown's article n.17 above.

²⁰ Gibbon vol 1, pp 94-95.

to disseminate the new science.²¹ They collected cupboards full of plaster casts of the heads of the famous and infamous to demonstrate the accuracy of their revelations on character. By 1821, when he met Davey, Combe had already published his *Essays on Phrenology* and carried its message both to elite audiences of academic and professional men and to the mechanics institutes, where skilled workers and tradesmen sought to learn from the public discussion of new ideas, and where he invited them to rely on their own powers of observation to test them. Members of the audience could purchase casts from the Edinburgh firm of O'Neill and Sons in the Canongate and measure them for themselves. Combe repeatedly told his audiences that phrenology's gateway to intellectual truth was through their own observations and the application of reason. It seemed to take the Enlightenment's methods of observation and inquiry to a wider, less elite audience.²²

The battle lines between phrenologists and anti-phrenologists were not drawn up on the basis of intellectual truth alone, however. If scientific knowledge is 'socially infiltrated', then the social and cultural background of its protagonists is relevant. Steven Shapin's groundbreaking study of the Edinburgh phrenologists placed them and to an extent explained them, in the cultural context of a conflict between 'outsiders' and 'insiders' in a fast changing Edinburgh society. His collective biography reveals that in 1826, from a sample of 244 members of the Edinburgh Royal Society and 86 members of the Edinburgh Phrenological Society, all of

²¹ The Edinburgh society was the first. By 1830 there were thirty societies in Britain and Ireland, of which more than half were Scottish. See van Whye, *Phrenology* p.56.

²² George Combe, *Essays on Phrenology, or An Inquiry into the Principles and Utility of the System of Drs Gall and Spurzheim, and into the Objections made against it.* (Edinburgh: 1819). The Edinburgh Phrenological Society consisted mainly of middle class young men and grew to a membership of 120 by 1826. Phrenology was the 'short cut' science, offering the status of a knowledge into all things without the barriers and obfuscation which kept all but the well-off and leisured out of science and philosophy.

Edinburgh University's professors belonged to the former and none to the latter. There were three times the number of gentry and aristocrats in the Royal Society than among phrenologists, whilst merchants and artisans were very much better represented amongst members of the Phrenological Society. Shapin finds further confirmation of the 'outsider' status of phrenologists from the membership lists of other institutions 'constituting the contemporary cultural elite.' His conclusion on the Edinburgh Phrenological Society was that its members were 'less genteel, less aristocratic, less politically and socially powerful than that of any other chartered scientific, philosophical or literary society of contemporary Edinburgh.'²³ 'Insider', establishment Edinburgh resisted the newcomers, apparently because they disagreed with them on scientific and technical grounds, but in fact the conflict was as much about their status and position as opinion leaders.

Roger Cooter's more recent study of 60 proponents and 17 opponents of phrenology confirms differences in social profiles. It reveals that whilst the average age of the 'antis' was 41, that of the 'pros' was 24. More of the opponents are listed in the Dictionary of National Biography. Given the age differential, however, this is hardly surprising. Cooter also found that the phrenologists were from less well-off backgrounds and that none of them had studied at Oxford, though the weight of this point has to be balanced against the fact that only four of the 'antis' had done so. Besides, the Scots on the list, of both persuasion, had excellent universities nearer home. Cooter emphasises the limits of collective biography, however, and draws a subtler picture of how what seemed like a conflict between polar opposites was often about differences between 'degrees of social reordering and the pace of social

²³ Steven Shapin, 'Phrenological Knowledge and the Social Structure of Early Nineteenth Century Edinburgh', *Annals of Science*, 32 (1975) p.228.

change' espoused by factions of the same class who had quite a lot of views in common. There were social reformers in both camps, but in time, certainly by the 1830s, phrenologists were identified as the more progressive.²⁴

The phrenologists sought a peculiar kind of status, however, not through wealth or class or politics, but through being 'high status intellectual men'.²⁵ Though they had a group identity, the prizes they sought were often more about acceptance by the academy and the achievement of individual kudos than about the furtherance of any particular interests. The contest with anti-phrenologists was phrased as a clash of worldviews because it was only through defeating the dominant intellectual elite in the territory of ideas that their individual aspirations would be fulfilled. It may have seemed an uneven contest. The established Edinburgh elite fielded the heavyweights of academia. The phrenologists were not lacking in talents, however.²⁶ They also had the support of the *Scotsman*, a sympathetic hearing in the *Lancet* and the enthusiastic interest of popular audiences. At stake was the inheritance of the Enlightenment.

George Combe aspired to take phrenology into the ranks of geology, economics, philosophy and science as an equal field of rational inquiry into human nature. His own aspiration was to join the giants who had brought such distinction in them to Scotland. Indeed he believed that phrenology surpassed the achievements of the Scottish common sense philosophers Thomas Reid and Dugald Stewart.²⁷ There was,

²⁴ Cooter, pp 42-48 and 84.

²⁵ John van Wyhe, *Phrenology and the Origins of Victorian Scientific Naturalism* (Aldershot: Ashgate, 2004), p.70.

²⁶ Among the talents were the geologist Sir George MacKenzie, botanist Hewitt Watson, and Robert Chambers, later, in 1844, to publish the *Vestiges of the Natural History of Creation*. Young lawyers and medics were well represented.

²⁷ 'Correspondence Between Academicus and Consiliarius, on the Comparative Merits of Phrenology and the Mental Philosophy of Reid and Stewart', *Phrenological Journal*, 50, Dec 1836.

superficially, some apparent overlap, which seemed to suggest that the phrenologists were heirs of the 'faculty' psychology of the common sense school. Reid had been influenced by physiology and listed twenty-four 'active powers' of the mind, and Stewart had written about the faculties of the mind, including 'perception' 'conception', 'memory', 'imagination' and 'judgment', some of which were borrowed by phrenologists and expanded into more specific lists of aptitudes and characteristics. But the philosophers did not regard the mind as divisible into distinct, separate organs let alone suggest that these were mapped on the skull.²⁸ Combe found much to improve upon in their work and more to criticise. Reid and Stewart had failed to offer a useful method of understanding the faculties they described, he objected, other than introspection. All that could be revealed from an individual's observation of his own consciousness was the state of his mind at the moment when he introspected. It had nothing to say about the minds of others, or why one man differed from another. Unlike phrenology, common sense philosophy had no practical applications, despite its name. It was dense and difficult to understand. Compare, he said, the sales of his own book with the sales of Reid and Stewart. Let the people decide.

The notion that phrenologists had upstaged Reid and Stewart offended Edinburgh's intellectual and social elite, many of whom, like Thomas Brown and John Gordon, who fired the first salvos against it in the *Edinburgh Review*, were pupils of Dugald Stewart. Combe wrote this memo on the back of a letter of July 1821 from a critic, the historical biographer Macvey Napier :

Mr Napier is well known as a metaphysician of the old school, and an ardent admirer and defender of Mr. Dugald Stewart.[the letter] is valuable in shewing how these gentlemen of the old school contrive to live in the midst of

²⁸ For relationship between common sense philosophy and phrenology see De Gusto, pp37-38.

the lights of Phrenology and adhere to the darkness of metaphysical mysteries.²⁹

Combe's personal aspirations were locked into the dispute, but it touched an important, wider social divide. Phrenologists were interested in the differences among men, where the mental philosophers were interested in what members of society had in common. Common sense philosophy, particularly as it was deployed in education, was seen 'as a bulwark against individualism, and to ensure that the fabric of Scottish society was not rent with social cleavages'.³⁰ Phrenology's open door to empirical study of the diversity of mankind was a challenge to the dominance of an elite which held the key to academia and did not welcome merchants and tradesmen. This goes some way to explain the prominence of these 'outsiders' in the phrenological societies.

The 'old school' for their part drew their lineage from the Enlightenment through Reid and Stewart to Sir William Hamilton and Francis Jeffrey, not to George Combe. It is a mark of how far the upstarts had rattled the establishment that Hamilton vowed: 'I have undertaken to assassinate phrenology'.³¹ In 1836 Hamilton and Combe almost literally squared up to each other in a contest for the prestigious Chair of Logic at the University of Edinburgh. Combe, the outsider, even with thirty-five testimonials behind his candidature, was never going to be the winner. But all that lay ahead. Little could Davey Haggart have known on the day he met George Combe that the genesis of such a weighty philosophical, social and scientific controversy had just walked through the jail door and was about to involve him in it.

²⁹ Attached to letter from Macvey Napier to George Combe, 27 June 1821, National Library of Scotland, Combe MSS 7207.

³⁰ Shapin, p.239.

³¹ Quoted in Van Wyhe, p. 88, from the *Phrenological Journal* 1828-9. Francis Jeffrey also made a heavyweight attack on phrenology in the *Edinburgh Review*, 44 (1826), 253-318.

Davey Haggart's Head

Phrenology styled itself as a science of the mind that could yield important information about character. The shape and size of the faculties were not, on their own, enough to predict behaviour, but their size, relative to each other gave evidence of 'propensities'. It was, therefore, a useful applied science for the selection of an employee or a husband, and had clear relevance to the identification and possibly the punishment of criminal offenders. If George Combe was right, and an examination of the skull of a criminal revealed measurable difference to an ordinary law-abiding skull, it had all sorts of repercussions for law and society. It would bring into question how far that criminal was responsible for his own actions and what point would be served by punishing him. Gone would be the image of the criminal either as sinner, rebel or rogue. Instead he would be an object to diagnose and catalogue according to how large such organs as secretiveness, combativeness and destructiveness were, how uncompensated by conscientiousness and so on.

Combe was confident. His journals reveal that he had considerable experience, including, in May 1820, a report on the skull of Robert the Bruce, whom he found to have 'rather full' organs of combativeness and destructiveness, making him bold and prone to anger, though his conscientiousness was 'not considerable', showing that his sense of justice was not strong.³² There is also a record of his own phrenological

³² Combe MSS 7452, 8 May 1820. The same volume contains a great many phrenological reports about individuals either of his own acquaintance, or of casts which have been sent to him and his own.

profile, taken the same year as Davey's. It shows Combe's self-esteem and love of approbation 'large', his benevolence 'very large', his combativeness and amativeness 'rather full' and his destructiveness 'full'. How would Davey compare?

On 29 May, 1821, awaiting trial, Davey 'was brought to warm himself and smoke a pipe' in an apartment of the jail where he and the phrenologist had a long conversation. Immediately Combe began to interpret his appearance:

His countenance was decidedly intellectual and even moral in its expression. There was no look of ferocity, nor of grovelling appetite, but his countenance was clear, animated and intelligent: not what might be called open, but not remarkable cunning. His manner and style of language was far from being vulgar. In short, one felt no repulsion from his exterior aspect, but rather the reverse.³³

This is a reminder that phrenology's claim to reveal the inner man from the outer shell, was preceded by another. Johann Caspar Lavater (1741-1801) was a Swiss pastor who became the leading authority on physiognomy, the 'widely accepted ancient art or science of judging an interior by the external appearance.'³⁴ Though Lavater made only modest claims and certainly never attempted to diagnose criminality, his work gave some 'scientific' backing to the daily practice of humanity, then and now, to look for character in faces. Combe's first thoughts, however, were not crudely based on physical characteristics but on expression. He moved then to more technical ground and measured Davey's head, where he found data to confirm his first impressions. There was 'a great deal more before than behind the ear' and his forehead was high. He was, therefore, intelligent and acute. Finding only 'moderate

³³ Combe MSS 7407, Notebook, 29 May 1821.

³⁴ John Graham, *Lavater's Essays on Physiognomy: A Study in the History of Ideas* (Berne: Peter Lang, 1979), p.35. Lavater was interested in the parts of the face that do not readily change with expression, e.g. the forehead, nose, but did include pathognomy, where habitual expression could reveal character e.g. a glance.

destructiveness' and 'moderate covetousness', together with 'large benevolence' he noted that this 'coincided also with the refined expression of his face.'

He was a little surprised, however, and noted, 'the difficulty was to account for his conduct with such a head.' He spoke to Davey about the good things he found in his head as well as the propensities that might take him into trouble, principally his lack of need for approbation, and a 'full' development of secretiveness. 'But you were neither cruel nor ill-hearted; nor were you insensible to justice', he said and would experience remorse arising from his own disapproval of the act. Even now, he continued, 'you put a brave face upon your own conduct and speak of it lightly yet you feel internally more than you express and you recognise the truth of what I am saying altho' you wish us to think that you are unconcerned.' Davey had said nothing until that point, whereupon Combe thought he came close to tears, and was 'evidently affected.'

Combe's notes on the meeting tell of Davey's reaction:

When done he looked up at me and said, 'Well, that is very curious—*That is something* I did not know before'—Meaning that all his knowledge of the world never made him acquainted with the art of telling the character by the head.³⁵

The phrenologist went off to visit elsewhere in the jail, but as he was leaving the turnkey called him back to tell him that 'Haggart is greatly struck with what you told him. He says some of it is very true.' Later, after Combe had published his *Sketch of the Natural Character of David Haggart*³⁶ and been well and truly mocked for it, the

³⁵ Combe, *Notebook*, 29 May 1821.

³⁶ George Combe, *Sketch of the Natural Character of David Haggart, As Indicated by his Cerebral Organization* (Edinburgh, Tait, 1821). It was published as an appendix to Haggart's *Life*.

two turnkeys, Peter Bunkle and James Waldie added further details of what had happened when the phrenologist left:

We turned the thing into a joke, and said that it was all nonsense; but on our saying so, Haggart said, in a serious manner, that it was no joke, for Mr Combe had told him a great many things that were true; and the impression made on us by Haggart's manner and observations was that he thought his real character had been described, and that he was surprised at it.³⁷

On 18 June, in the interval between conviction and execution, George Combe had given David a more formal right of reply. The timing was important because he 'expected that his mind would be subdued to sincerity by the certain prospect of death.'³⁸ He sent him a copy of the *Sketch* of his character, and asked him to comment on each of his observations. He promised him that he could speak candidly, since it was 'entirely confidential'. The result was a unique dialogue between the phrenologist and the murderer. Davey composed a reply, without assistance Combe said, and needing only the correction of spelling and grammar. For his part, Davey offered Combe some corrections on content:

I have corrected you in every point in which my conscience told me that my character was not the same as you describe.³⁹

What followed was surely one of the most unusual insights into the character of a young reprobate turned murderer, either in gallows literature or rogue biography. That it was so interesting had little to do with phrenology. Possibly for the first time in his life, somebody was asking him questions that elicited some self-analysis rather than

³⁷ Handwritten note, 13 August 1821, Combe MSS, 7206. They said they had been requested to comment on Davey's reactions and this reply was published in George Combe's *Phrenological Observations on the cerebral development of David Haggart* (Edinburgh, Tail, 1821), written as a correction to errors in the earlier *Sketch*. Haggart had requested that they each receive a guinea from sales of the *Life*, though this would hardly oblige them to speak up for Combe.

³⁸ Haggart, *Life*, Appendix p.158.

³⁹ *Ibid.*, p.170.

narrative. It was as close to being 'in the psychiatrist's chair' as it was possible to come in an early nineteenth century interview of someone who was thought sane. Perhaps David was candid. Combe certainly was not, and his promise of confidentiality was soon broken, when he published the *Sketch*.

Phrenology itself limits the usefulness of the interview in the end because Combe's questions are 'leading' ones rather than 'open'. Having decided on the basis of the examination of his head that he was, after all, not a demon, but had some surprising strengths of intellect and character, Combe bowled him some kindly, closed questions; 'You would never be cruel or brutal....without bitterly regretting it?'; 'You would never be the slave of the sexual passion, nor greatly given to drink?' This last was the only one that brought categorical denial, and no doubt Davey was insulted. 'You have mistaken me in this point of sexual passion; for it was my greatest failing,' he responded. He had led innocent young women astray. As to drink, he was not addicted but 'a little spirits were always necessary'.⁴⁰ He would not let the phrenologist whiten his character too much.

On almost every other point he was in substantial agreement with the assessments of his character. There was no indication of a pathologically violent young man, though, as his large organ of combativeness showed, he was ready enough to throw himself into a fight if provoked. No doubt George Combe did not intend a compliment when he asked him about his cunning and duplicity, but Davey took a different view and thought the problem lay in his not having enough!⁴¹ A picture emerges of a wilful, defiant youth who could not take orders, one who had quite a conceit of his

⁴⁰ Ibid., pp167-168.

⁴¹ Davey wrote, 'I have never thought that I had enough cunning in my own eyes; for those of the sporting life found me out to be of that life before they knew my name.', Ibid., p162.

cleverness, and who loved dress and company and 'the sporting life'. Most of this was revealed in his *Life*. The deeper moments came in response to questions about concealing his motives and keeping the reins on his feelings, thus 'appearing impenetrable to the eyes of others'. Davey agreed that he had inner depths that were unplumbed by others and that he often wore a mask in public: 'No man could ever say that he saw my countenance grieved, although I was in the greatest trouble of mind that a man could possibly be in.' Similarly, even when pleased with his criminal prowess; 'The applause that I might have got, had I been desiring applause, was kept from me by my determined way of keeping my mind within my own breast, as I always did.'⁴²

Combe's conclusions emphasised the contradictions he found in the young prisoner's skull. He had found some explanations for his behaviour in the large organs of combativeness and secretiveness and a defective love of approbation. But there was a more complex picture. Here was a young man who appeared nonchalant about his life but felt more than he showed. There was a tussle going on within, reflected in the external protuberances. His sense of justice, his large benevolence and his great intellectual powers were pulling in a different direction from the sources of 'moral disease', in his case the ill-directed faculties of self-esteem and firmness. Combe found phrenological evidence of conscience but although Davey admitted to some pangs, he said nothing to imply that it kept him awake at night. It was stilled by the timeless thought, 'I was no worse than others who had been before and would come after me.' He saw no point in regrets.

⁴² Ibid., pp164-166.

It was a gentle report card but its publication released another storm. Just as the glossary to Haggart's *Life* had attracted opprobrium, so did its Appendix, the *Sketch* of his head. Combe wrote in his Journal on 1 August that his enemies 'have conceived that Haggart's head is against the system and have set up a wonderful crowing.'⁴³ Combe was grateful for any support over this period and was indebted to George Baird, Principal of Edinburgh University, no phrenologist himself, for prevailing upon some 'scoffers' among the professoriat to visit his collection and attend a demonstration. Baird's conduct showed a 'very considerable independence of feeling'.⁴⁴ The controversy was set to rumble into the autumn. A letter from George to his brother Andrew Combe on 18 October asks him to reassure Spurzheim, to whom he had sent Haggart's case, that he is not upset. 'He seems to think that I am much distressed at being abused,' he wrote. 'Tell him it is not so, when I know I am in the right.'⁴⁵

Newspaper comment had been critical, but the cruellest wounds had been inflicted by the mocking tones of *Blackwood's Magazine* in its August edition.⁴⁶ Sir Toby Tickletohy Bart, of Tickletohy Hall debunked phrenology and offered spurious research by Dr Edward Clyster drawn from his examination of 800 boys' bottoms at the grammar school of Kittlehearty. It appeared to show that intellectual powers were improved by the application of the tawse and therefore demonstrated the true location of the organ of learning. He went on to detail his own plan to wipe out crime. The inspiration came to his organ of inventiveness at 11.10pm on 25 July as he read

⁴³ Quoted in Gibbon, vol 1p.140.

⁴⁴ Combe MSS 7206, memo attached to a letter from Principal Baird to George Combe, 16 August 1821. The 'scoffers' were the anatomist Dr. Munro and Professors Wallace and Jameson.

⁴⁵ George Combe to Andrew Combe, 18 October 1821, Combe MSS 7377.

⁴⁶ Sir Toby Tickletohy, Bart (Christopher North), 'Essays on Cranioscopy, Craniology, Phrenology Etc.', *Blackwood's Edinburgh Magazine*, August 1821.

Combe's *Sketch*. Infants could be given special metal headgear 'formed so as only to permit the development of the required organs.' A monarch could be specially moulded to secure the Protestant succession. Parliament could make it compulsory to have heads read. Chillingly prescient of Nazi ideology in a future age, he suggested infants with criminal propensities could be separated from the general mass, and 'grown up wicked people might be put to death without mercy, for the safety of the good.'⁴⁷

He offered a satirical poem, *Dialogue between a Phrenologist and a Murderer*, based on 'The Life' and quoted Combe's findings in the *Sketch* with this editorial comment:

We have quoted these latter passages to shew what an excellent man Haggart was, but for his unfortunate convictions [...] though it has been insinuated to us in more than one quarter that the observer must have been either blind or "lousy" when he made observations so little in accordance with the registers of the criminal courts; and though we have heard it remarked as an odd manner of characterising the profession of robbery, seduction, and murder to term it merely "a sporting line of life", yet as David, according to the indications of his cranium was an "honourable man....(and so is his observer) we make no further remark, than by repeating with Mark Anthony, that "so are they all-all honourable men".⁴⁸

George Combe was quite used to being mocked. Just a few months earlier, in April 1821, he had been the intended victim of a practical joke, when a sceptical medical man had modelled a turnip in the shape of a human head and taken a cast of it, sending it to Combe for his opinion. Though Christopher North, who had written the *Blackwood's* piece above later claimed that the trap was successful, Combe insisted that 'the cast smelled so strongly of turnip that a cow could have discovered its origin.'⁴⁹

⁴⁷ Ibid., p.80.

⁴⁸ Ibid., p.76.

⁴⁹ Quoted in Gibbon, vol 1, p. 139.

He was impervious to his enemies' laughter but he noted in his journal on 1 August that even the friends of phrenology 'have taken alarm and regretted the publication' of the *Sketch*. The same entry gives the first indication that he had in fact discovered an error in his original findings. Since the execution he had the opportunity to examine a cast of David's head and to observe a difference between the cast and the live measurements. This revealed that the organ of conscientiousness, which he had previously thought not to be deficient, was in fact small. 'When this mistake is corrected, the head harmonises with the character in everything.'⁵⁰

He moved quickly to correct his mistake in the *Sketch* and published his *Phrenological Observations on the Cerebral Development of David Haggart* in late August.⁵¹ In it he explained how he had examined the cast of his head immediately after execution and one taken from his skull, taken after dissection. He had, he admitted, now discovered that David's conscientiousness was small. The error was 'an imputation on my talent for observation,' and could be explained by the unfavourable circumstances in which the observation was made. It was never intended for publication and he had until now no opportunity to correct it. The new measurement of that organ explained everything else. Conscientiousness produces the sentiment for justice. When it was weak an individual will generally be ready to do an unprincipled action 'if excited by inclination or interest.' There was, argued Combe, a great deal of public misunderstanding about phrenology. It did not foretell certainties in behaviour. The sizes of different organs are relative within the same head and it is the combinations and the circumstances that matter. Everything else he said was true

⁵⁰ Ibid., pp140-141.

⁵¹ George Combe, *Phrenological Observations on the Cerebral Development of David Haggart* (Edinburgh: Tait, 1821).

and very well illustrated by the narrative David wrote. Anxious to refute *Blackwood's Magazine's* implication that by referring to David's crime in the offender's own euphemism as 'the sporting life' he had condoned a sense of levity, he explained that it was only by adopting the youth's own preferred description of his crimes that he would talk. He became sullen and communicative if his offences were called by their common names.

Combe's 'second thoughts' on Haggart were well received in some quarters. Inventor and engineer Bryan Donkin wrote this from London:

I am sorry the world should be so unreasonable as to expect that this Science alone should be at once as it were intuitively understood by its advocates and acted upon with certainty. Haggart's case I do not regard at all as a serious matter. The cast secures the Science.⁵²

Spurzheim, the great man himself, wrote from Paris and seemed to suggest that controversy was no bad thing for phrenology:

Such individual cases as that of Haggart are the most fit to keep up public attention. They offer matter to talk of. You have got very often the same personal conviction of Phrenology in examining the heads of other individuals but mentioning these facts did not produce the same effects on the minds of the public.⁵³

Nonetheless Combe hated having to admit to error and did so only twice in his career. In 1845 when he looked back to all the times he had suffered ridicule, he wrote 'the only instance in which I recollect of being deeply and permanently mortified by ridicule was on the occasion of the blunder I made about David Haggart's conscientiousness.'⁵⁴ Clearly he had been wounded by such a hostile reaction to his *Sketch* of Haggart and even in 1856 he was still picking at the wound. It was, he

⁵² Bryan Donkin to George Combe, 17 September 1821, Combe MSS 7206.

⁵³ Johann Caspar Spurzheim to George Combe, 8 October 1821, Combe MSS 7206.

⁵⁴ Quoted in Gibbon, vol.1 p. 141.

thought, due to a deficiency in knowledge at the time. Somehow, even in the admission of error he still managed to rescue his enormous ego. At that time, he said, 'the method of estimating the size of the coronal region was not then *discovered by me*, and this led to the error.'⁵⁵

David Haggart's head compared to other criminals and citizens

Interest in the heads of convicted criminals had only just begun with the fracas over David Haggart's head. The 1820s witnessed a growing interest in murder and the men and women who committed them. Criminal biographies evolved from rogue histories to case histories. Statisticians began to take an interest in what offenders had in common.⁵⁶ If they were different from other people, what made them different? According to phrenologists, the answer to that question lay in the contours and bumps of the skull. The enormous quantity of casts that they had generated and made available for public scrutiny made it possible to undertake large-scale empirical studies, comparing criminals both to fellow criminals and to ordinary law-abiding citizens.

This is what Thomas Stone MD, Edinburgh medical man, attempted to do in two papers in 1828 and 1829 to the Royal Medical Society of Edinburgh. In addition to making a detailed attack on phrenologists in terms of their ignorance of how the skull bones form and how frontal sinuses leave a gap between the brain and the skull, making it impossible to detect any correlation between many of the phrenological 'organs' and surface 'bumps', he played his trump card. He demonstrated some of the

⁵⁵ Ibid.

⁵⁶ See Ysabel Rennie, *The Search for Criminal Man: A Conceptual History of the Dangerous Offender* (Toronto: Lexington Books, 1978).

absurdities that arise on comparing casts. In the first of his studies, in 1828, he chose three convicted murderers Haggart, Thurtell and Pallet, and compared them with Voltaire, Sheridan, Raphael, the actress Miss Clara Fisher and an unknown eight years old child.⁵⁷ Voltaire emerged as having a better head for murder than any of the real ones and was potentially a better thief than Haggart, having both larger organs of destructiveness and combativeness as well as larger acquisitiveness. The Frenchman's organ of benevolence did not offer any consoling balance, since it was smaller than Haggart's. Turning to the histrionic abilities of Clara Fisher, as indicated by the organs of concentrativeness, secretiveness, imitation and ideality, it seems that Davey Haggart and fellow criminal Pallet 'might have worn the buskin, and been an ornament to the British stage.' And so on.

All this was but a prelude to Stone's paper the following year. It was 1829 and the gruesome story of Burke and Hare had shocked the public but made it ever more curious to know what made the perpetrators 'different' from them. Stone's paper could not have reassured them that they were in any way different.—at least on the evidence of their heads. His findings in *Observations on the Phrenological Development of Burke, Hare etc.* were based on a larger sample both of murderers and comparators.⁵⁸ David Haggart was included once again, this time among sixteen executed murderers. The control groups were varied. He used measurements from fifty crania supplied from Spurzheim's collection in Edinburgh museum and fifty from Sir William Hamilton's. This was to demonstrate impartiality between phrenologists and anti-phrenologists. Three more tables were drawn separately from

⁵⁷ Thomas Stone, *The Evidences Against the System of Phrenology* (Edinburgh: Maclachlan & Stewart, 1828).

⁵⁸ Thomas Stone, *Observations on the Phrenological Development of Burke, Hare and other Atrocious Murderers* (Edinburgh: Robert Buchanan, 1829).

the heads of Englishmen, Scotchmen and Irishmen, to meet any phrenological argument that there were national or racial difference.⁵⁹ They were taken from a mixture of soldiers and porters in the Edinburgh area. Finally there was a table of statistics culled from thieves presently in the Bridewell for theft.

Stone described his scientific method. Whereas phrenologists offered such vague terms as 'large', 'moderate' 'rather large' and 'very large', he appeared much more specific. First he measured the dimensions of the cranium. Then he filled it with sand, weighed it and reduced the specific gravity of the sand to the specific gravity of the brain, enabling him to measure the absolute and relative measurements. All this provided him with figures which Combe said 'looked like logarithms' but were no more than 'decorations of a phantom, and serve no purpose but to add to the deceptive powers of an illusion.' He was right, as he would have been if he had said the same about his own figures. He pointed out that in some cases it was possible to add up the size of four of Stone's measured organs and take it away from the 'average size' of the whole head to leave very little space for the other thirty- one organs. Combe also objected to Stone's crucial omission of measurements for the breadth of the 'organs.' Stone fired the obvious salvo that it was impossible to measure them because their boundaries were fanciful.⁶⁰

Stone's hypothesis was no more acceptable to the phrenologists than his method. If it were possible to identify potentially murderous crania then he expected to find that his sixteen murderers would have a comparatively large organ of destructiveness, a

⁵⁹ Phrenology did become involved in the measurement of and belief in racial difference. See John D. Davis, *Phrenology, Fad and Science*, Chapter 12.

⁶⁰ This exchange is in George Combe, *Answer to "Observations on the phrenological development of Burke, Hare and other atrocious murderers"* (Edinburgh: John Anderson, 1829).

deficiency in the alleged organs of the moral sentiments and a larger quantity of brain behind the ear, giving evidence of the predominance of the lower, or animal propensities. To Combe and his supporters, Stone was missing the point in what he was trying to demonstrate. What mattered was the relative size of each organ within the one head and the ways in which the organs interacted both with each other and with circumstances. Thus a murderer could be responding, not to his destructiveness but to acquisitiveness or pride. A mother could kill her baby out of her large philoprogenitiveness to save it from starvation. A man could be savage and cruel at one time, mild and benevolent at another. Combativeness could make one man brave and another aggressive.⁶¹ And then of course there were the 'temperaments'. In addition to measurable protuberances, the individual brew of them was also affected by whether an individual was 'nervous', 'bilious', 'sanguine' or 'lymphatic'.⁶² Phrenology was the Houdini of sciences, easily able to escape even its own measuring tapes.

Stone's conclusions were predictable. The most atrocious murderers not only failed to demonstrate a large endowment of destructiveness but very frequently were below average, absolutely and relatively. Their 'pretended organs' of moral sentiments, particularly those of benevolence and conscientiousness, were comparatively large. Their 'supposed intellectual organs', compared to those of high intellectual and moral character were as well developed. The *Edinburgh Literary Journal* and the *Edinburgh Evening Post* welcomed Stone's research findings as dealing a death blow

⁶¹ William R. Gregg, *Observations on a late pamphlet by Mr. Stone, on the phrenological development of Burke, Hare etc.* (Edinburgh, 1829)

⁶² John Davies, *Phrenology* p.4. 'Nervous' was associated with large brain, delicate health; 'bilious' with harsh features, firm muscles; 'sanguine' with large lung capacity and moderate plumpness; 'lymphatic' with rounded form, heavy countenance. These categories were carried over from physiognomy and were also similar to twentieth century divisions by William Sheldon into 'ectomorph', 'mezomorph' and 'endomorph' types of physique associated with mental states.

to phrenology's claims.⁶³ In terms at least of the scientific debate, this was probably true and in the 1830s phrenologists turned away from the scientific to the social implications of their beliefs, without of course conceding defeat. It was true, conceded Combe that 'we have not been able to demonstrate it to the eye and to the touch, but we are able to do so to the understanding.' The eye could at least determine the most extreme differences, however. And what was the most extreme? David Haggart again was a good specimen:

I cannot conceive the condition of a mind unable to distinguish between the size of the organ of ideality in the head of Dr. [Thomas] Chalmers and its size in that of David Haggart.⁶⁴

That comparison aside, David Haggart's head had enjoyed a good decade since his execution. Not only had it compared favourably with Voltaire's but in Stone's 1829 paper it was placed in the distinguished company of Dr. David Gregory, Professor of Mathematics at the University of Edinburgh and Savilian Professor of Anatomy at Oxford. In fact it seems that Davey had a smaller organ of acquisitiveness than this man of 'high moral and intellectual values' together with a larger organ of causality and less brain behind the ear where the animal propensities were housed.⁶⁵ Davey would no doubt have been pleased with this 'scientific' validation that he was a 'lad o' pairs' who could have used his talents to achieve fame in a different career.

Free Will and Determinism. What could be done with the likes of David

Haggart?

⁶³ According to Combe, *Answer* p.10, referring to the *Edinburgh Literary Journal* of 2 May 1829 and *The Edinburgh Evening Post* of 9 May.

⁶⁴ Gibbon, vol 2 pp.103-104.

⁶⁵ Stone, p.47.

David Haggart believed that he was born to his fate. A man that's born to hang won't drown, he believed. George Combe's phrenology appeared to give fate a foundation in the measurements of the cranium. Although he rejected the Calvinism of his upbringing and found predestination a cruel doctrine, his philosophy as he expressed it in the *Constitution* has been described as secular Calvinism.⁶⁶ Indeed novelist James Hogg makes gentle fun of phrenology on this point in *The Private Memoirs and Confessions of a Justified Sinner*. The confessor, Robert Wringhim, believes himself to be one of the Elect, his sins forgiven and a place in Heaven guaranteed. In conversation with Gil-Martin, who is either an *alter ego* or the devil incarnate, he expresses doubt that 'chosen as he was from all eternity, still it might be possible for him to commit acts that would exclude him from the limits of the covenant.' His companion argued fluently 'that the thing was utterly impossible, and altogether inconsistent with eternal predestination.'⁶⁷ The latter prevailed and set Wringhim on a course of murder and mayhem well beyond the imagination of a Davey Haggart. There are two narratives, one a confession written by Robert himself as his tortured mind disintegrates into madness and eventual suicide, the other a century later by an apparently modern, rational 'Editor' who brings the discovery of Wringhim's confession to the public, mediated by his own version of what happened.

At the end of the narratives, Hogg plays a little literary joke, and perhaps also a joke on phrenology. The Editor reads a letter in *Blackwood's Magazine*—that bastion of anti-phrenology. Dated 1 August 1823 it purports to come from a Mr James Hogg

⁶⁶ Gibbon, vol 2 p379, where he claims that the doctrine of predestination 'shocked my Benevolence and Conscientiousness' and seemed to represent a cruel favouritism by the Deity. Cooter, p.4 sees the *Constitution of Man* emerge 'as a secular Calvinism.' See also A. Cameron Grant, 'Combe on Phrenology and Free Will: A Note on XIXth-Century Secularism', *Journal of the History of Ideas* 26 (1965) for Combe's rejection of free will.

⁶⁷ James Hogg, *The Private Memoirs and Confessions of a Justified Sinner*, first published Edinburgh, 1824, (Edinburgh: Canongate, 1991), p.71.

and concerns the recent discovery of the remains of a suicide in circumstances that alert him to the possibility that it is Robert Wringhim who has been exhumed. The editor is sceptical. Both *Blackwood's* and this James Hogg are given to 'fancies'. Nonetheless he sets out to investigate and find the remains. The Etrick shepherd plays a cameo role when the Editor arrives with his companion in the Borders in search of the grave, but declines to leave his sheep to accompany him. At length the corpse is disinterred and it becomes clear that the Editor is very anxious to find the skull. When it was retrieved it was found to be damaged and incomplete, but perhaps still able to yield a clue to the mind of this—criminal—or justified sinner. The Editor observed:

I am no phrenologist, not knowing one organ from another, but I thought the skull of that wretched man no study. If it was particular for one thing, it was for a smooth, almost perfect rotundity, with only a little protuberance above the vent of the ear.⁶⁸

George Combe might have interpreted this protuberance, the organ of destructiveness as evidence of criminality. There is a suggestion that despite the Editor's disclaimer of any interest in the subject, he does know what to look for and leaves the reader to decide if his find is important. Behind the Editor's apparent rational, modern appearance, Hogg draws attention to the shallowness of pretended scientific answers to the question of what takes a man to the depths of despair and depravity. Set against the novelist's own odyssey into Robert Wringhim's mind, phrenology had nothing to offer.

Yet phrenology was more than a secular version of predestination. For George Combe it was the foundation of an optimistic self-improving philosophy. Whatever shape of

⁶⁸ Ibid., p.204.

head an individual was born with, he or she was not doomed to live the worst life its organs were capable of fashioning. In 1828 Combe published a remarkable book. *The Constitution of Man in Relation to External Objects* was a self-help manual which became a Victorian best-seller and found its way to humble as well as educated homes in Britain and beyond. By 1860 it had sold 100,000 in the home market and 200,000 in America. It was translated into Swedish, French, German, and Polish and was printed in a special typeface for the blind. It went on being printed and read to the end of the century and outsold Darwin's *Origin of the Species*, which sold a comparatively meagre 50,000 copies in Britain between 1859 and 1900.⁶⁹

Although the book contained a lengthy account of the tenets of phrenology and the familiar map of the organs of the brain, the practical philosophy it expounded was not dependent on it. It was a very ambitious book setting out how man had been created wisely and benevolently (he did not say by whom) according to the same natural laws that governed all living things.⁷⁰ Happiness lay in knowing and obeying the natural laws, punishment from breaking them. Nature was progressive and man was adapted to fit it, not the other way round. In addition to natural organic physical laws, there were natural laws governing morality, the intellect and heredity. They were accessible through reason. They were constant, orderly and unbreakable and, though his critics found them a little vague, they appeared to have practical applications. They counselled such things as choosing the right mate, abstaining from alcohol and following a hygienic, healthy lifestyle. Most of what Combe had to say was

⁶⁹ George Combe, *The Constitution of Man considered in relation to external objects* (Edinburgh: John Anderson, 1828). Sales figures are from van Whye, *Phrenology and the Origins of Victorian Scientific Naturalism*, p. 129.

⁷⁰ Combe did not announce himself as an atheist and, especially in the 1820s, many found no incompatibility between phrenology and Christianity. After publication of his essay *On Human Responsibility* (Edinburgh, 1826) there were defections e.g. by William Scott and David Welsh when the nature of this secular determinism became clearer. DeGustino, *Conquest of Mind* pp 118-120.

derivative. His prescription for living in harmony with nature's laws was a social progressivism often indistinguishable from other social movements that embraced the reform of schools, prisons and asylums. The difference was that he packaged it as a modern scientific naturalism within the understanding of ordinary people. It was rational and useful, a 'scientific authorization of the tenets of self-help'.⁷¹ It told the reader how to live.

Combe, and phrenologists in general, embraced an idea of man's potential for improvement together with an acceptance of the critical importance of inherited biological traits in explaining his behaviour. The implications for penal policy were liberal. A man with large organs of secretiveness and destructiveness was not doomed by his biology. His other organs could be trained to master them if the environment was conducive to moral reflection and education. It was, therefore, not so determinist that it absolved wrongdoers from moral responsibility. As Sir George Mackenzie wrote to Spurzheim:

As it [phrenology] teaches, at the same time, that our higher faculties have, when duly cultivated, a governing and increasing power over the lower propensities and sentiments, it does not do away with personal responsibility. The best, under the system will not be able to preserve themselves free of blame, nor will the worst escape the penalties attached to their crimes.⁷²

George Combe's published thoughts on penology were also a world away from the one spawned by Sir Toby Tickleby's imagination where the logic of being able to identify a criminal from physical signs argued the logic of a prophylactic hanging.⁷³

⁷¹ Jenny Bourne Taylor and Sally Shuttleworth, eds. *Embodied Selves: An Anthology of Psychological Texts 1830-1890* (Oxford: Clarendon Press), p.8.

⁷² Sir George Mackenzie, *Illustrations of Phrenology* Preface.

⁷³ Beginning with his essay *On Human Responsibility*, and maturing into a much longer text in *The Constitution*, Combe came to believe that the criminal neither caused the preponderance of animal

But what would have Combe have done with Davey Haggart? Would he have hanged him or attempted rehabilitation?

In his autobiographical fragment, Combe described seeing a man hanged when he was a child. This was probably the execution, in March 1799, of James Stewart, a letter carrier convicted of stealing five £20 notes from a letter. The experience seemed to have made a very deep and lasting impression on him.⁷⁴ As a young man, however, he belonged to the 'Forum', a debating society that met in St.Mary's Hall in the Cowgate. When capital punishment was discussed, the audience decided against its infliction for any crime other than murder. Combe disagreed. He thought that there were crimes, other than murder that, under certain circumstances, would merit death.⁷⁵ This was in the decade prior to Davey's trial and execution, however. Certainly by the time he wrote his essay *On Human Responsibility* in 1826 he was clearly of the mind that hanging belonged to the 'animal' punishments and not the moral. In 1847 he brought together his previous thoughts and argued for total abolition of capital punishment.⁷⁶ He rejected any idea that hanging was a deterrent. Nor did retribution make sense since it was a combination of a man's cerebral organisation and the temptations around him that led him to crime. Society, argued Combe, had the right to do what was necessary to defend itself but it could do so without putting people to death.

propensities of his brain nor created the external circumstances which led them into their abuse. Hanging was an inappropriate response, itself a product of animal faculties. Ch 6, *The Constitution of Man* 8th ed., (1847).

⁷⁴ Gibbon, vol 1 p.32. He described how, later that night he suffered a frightening optical illusion, mistaking a hat cord in his room for the silhouette of a hanging man.

⁷⁵ Gibbon vol 1 p.82.

⁷⁶ George Combe, *Thoughts on Capital Punishment* (Edinburgh: Maclachlan & Stewart 1847).

Atrocious murderers did, however, pose a problem for most contemporaries.

Although Combe wrote a great deal about the treatment of prisoners who were redeemable by industry and moral training, he was not explicit about whether all criminals could be rehabilitated, however monstrous they seemed. Indeed, he believed that it depended on individual combinations of faculties:

A physician does not prescribe the same remedy for all patients on mere general principles. He tries to discover the specific condition of each, and varies his prescription according to it. The administrator of the criminal law must follow the same rule, and adapt his treatment to the mental condition of each offender.⁷⁷

Some of his critics could not join him in this brave new world and continued to believe that there were some criminals who were 'susceptible of instruction and amelioration' and others 'who have a proclivity to crimes deeply stamped on their original constitutions.'⁷⁸ Combe's reformist penology did not offer reassurance that he knew either how to identify or redeem the latter.

The importance of the phrenologist's evolving views, however, was that they linked punishment to rehabilitation rather than retribution or deterrence. Where classical legal theory put the crime at its centre, Combe put the criminal. Where traditionally the punishment must be appropriate to the crime, he would argue it must be appropriate to the criminal. Although nature had laid down the foundations of a future criminal, it had not made crime inevitable or reform impossible through training and education. Few people, probably not even George Combe, would have argued the case in public that David Haggart was a suitable case for treatment as early as 1821, despite the likeness of his head to Voltaire's, and especially after he had discovered how small his organ of conscientiousness really was. But it was the road that Combe

⁷⁷ Ibid., p.5.

⁷⁸ Review of George Combe's *Remarks on the Principles of Criminal Legislation*, in *The Leader*, 10 June 1854.

was on, and he was not alone. This letter from the Reverend Robert Buchanan argues a belief in rehabilitation, even for Davey Haggart, albeit written before the discovery of the phrenological error:

I think Haggart's development, considering the circumstances in which he was placed, is perfectly consistent with his life. I have no doubt that he did not intend to murder the jailor, but with the aim which he had in view, viz his liberty, it was not to be thought that he could moderate his blows.....[If phrenology was] more generally diffused among men, so as to have shewn them Haggart's real nature, and had extenuating motives been admitted, another punishment might have been awarded, *and he might yet have become a useful member of society.*⁷⁹

Although phrenology never won its stripes as a science and no anatomist ever found anything resembling the boundaries of the designated 'organs', it has its place among contenders for the origins of criminal anthropology. It was an intriguing idea, that criminals were 'others', not 'us' and that they could be identified by common, measurable physical characteristics. All subsequent attempts to prove this, and there have been many, have gone the way of phrenology. Cesare Lombroso (1835-1909), the Italian positivist usually accredited as being the father of modern criminology, popularised the phrase 'born criminal' in the last quarter of the nineteenth century. His theories, derived from the study of 383 crania from dead criminals and 3,839 general measurements from amongst the living, purported to show, not only that the characteristics of criminality were inherited but that they were also a throwback to an earlier evolutionary stage of man—the stage of the ape. As one historian summarises it:

These people are innately driven to act as a normal ape or savage would, but such behaviour is deemed criminal in our civilized society. Fortunately we may identify born criminals because they bear anatomical signs of their apishness. Their atavism is both physical and mental, but the physical signs, or stigmata as Lombroso called them, are decisive. Criminal *behaviour* can also arise in normal men, but we know the "born criminal" by his anatomy.

⁷⁹ Robert Buchanan to George Combe, 25 July, 1821, Combe MSS, 7206. (italics mine)

Anatomy, indeed is destiny, and born criminals cannot escape their inherited taint.⁸⁰

The stigmata Lombroso found included large jaws, greater skull thickness and large ears but they were not limited to inherited physical traits. They included such things as tattoos, and—interestingly in relation to Haggart —the use of criminal cant, which, with its high level of onomatopoeia was thought to resemble that of savages and children.

The flow of anthropomorphic measurements of criminal ‘stigmata’ that followed was finally stemmed, in part by the painstaking work of an Englishman, Charles Goring, whose tactic was similar to that of Thomas Stone’s attack on phrenology almost a century earlier. In 1913 he published *The English Convict*.⁸¹ He used anthropomorphic measurements to compare disparate groups and found no significant difference between criminals and university students. A similar statistical tactic undermined the proposition, popular in the 1960s, that men with XYY chromosome syndrome were prone to violence and more likely to have a criminal record. Biological markers of criminality are deeply distrusted but still surface in scientific journals and no doubt will continue to do so as techniques of brain imaging and genetic marking invite speculation.⁸²

The phrenologists were proved right in one thing. Some functions are localised in the brain. In 1861 the neuroanatomist Paul Pierre Broca (1824-80) showed that speech

⁸⁰ Stephen Jay Gould, *The Mismeasure of Man* (N.Y.: Norton, 1981), p.124.

⁸¹ Charles Goring, *The English Convict: A Statistical Study* (London: HMSO, 1913).

⁸² Fears were voiced in the *Economist* in May 27 2004 that ‘Neuroscientists may soon be able to screen people’s brains to assess their mental health; to distribute that information...to employers or insurers; and to ‘fix’ faulty personality traits with drugs or implants on demand.’

impairment followed when a specific area of the frontal lobe was damaged.⁸³ Since then the brain has been mapped with ever increasing accuracy as modern neuroscientists have observed it at work by using computerised axial tomography (CAT scans), positron emission tomography (PETscans) and magnetic resonance imaging (MRI scans). Their conclusions do not support phrenology's major beliefs, however, Susan Greenfield echoes phrenology's nineteenth century critics when she says:

Perhaps the most obvious lesson they have taught us so far is that it is misleading to think of one brain region as having one specific, autonomous function, as in the phrenologists' scenario.....the brain is made up of anatomically distinct regions but these regions are not autonomous minibrains; rather, they constitute a cohesive and integrated system organized for the mostpart in a mysterious way.⁸⁴

It was very much what Francis Jeffrey had said in 1826, that 'the mind is united in some mysterious way, to a living and organized body.'⁸⁵

The debate is not over about the remaining 'mysteries'. Indeed, scientists who are concerned that the new imaging techniques have engendered a false confidence in technology continue to argue that complex mental processes remain largely inaccessible. One of them, William Uttal, entitles his recent work on the limits of localizing cognitive processes in the brain *The New Phrenologists*.⁸⁶ Clearly it is not a compliment.

It is both a long and sometimes a surprisingly small step from old phrenology to now, from measuring tapes to MRI scans. The implications of establishing a biological

⁸³ See Samuel H. Greenblatt, 'Phrenology and Culture of the Nineteenth Century', *Neurosurgery* 37 October 1995 pp 790-805, 803, concluding that 'in highly altered form, phrenology had been vindicated.'

⁸⁴ Susan Greenfield, *The Human Brain: A Guided Tour* (London: Weidenfield & Nicholson, 1999) p.39.

⁸⁵ Francis Jeffrey, 'Phrenology', *Edinburgh Review*, 44 (1826), pp.253-318, 257.

⁸⁶ William R. Uttal, *The New Phrenology: The Limits of Localizing Cognitive Processes in the Brain* (Mass : MIT Press, 2001)

basis for crime are profound for penology, for ideas about human responsibility and free will, and for human rights. George Combe was not a scientist and he contributed very little to the debate that was original. Nevertheless he was a force to be reckoned with as a publicist of phrenology and an exponent of scientific naturalism. He wrote prolifically and was read far and wide. Part windbag and part practical philosopher he approached crime and offenders with an optimism that there was an alternative to 'launching offenders into eternity.' His meeting with David Haggart and the publication of his observations on him was personally painful and publicly humiliating. His ego recovered and he continued to mismeasure man for a lifetime, combining some sensible ideas about penology with some ideas about phrenology that by the early 1840s had lost any scientific credibility it had ever had in Britain. David Haggart died days after meeting Combe, having learned something he did not know from the visitor to his cell and without knowing that his head would be so controversial years later. He thought a lot of what Combe said of him was true.

CHAPTER FIVE

EXECUTING DAVID HAGGART: THE VERSIONS ON THE STREET

Hanging was a very unpleasant business. The victims suffered terror as, 'watched by thousands, they urinated, defecated, screamed, kicked, fainted and choked as they died.'¹ Though witnessed by the crowd, the details of this obscenity were rarely alluded to in print. Nor did they seem to get in the road of dying well. Like the Thane of Cawdor in *Macbeth* it could be said of David Haggart that 'nothing in his life became him more than leaving it.' Even the severest critic of his published *Life* was fulsome in praise of his death:

The whole scene was awfully solemn and affecting. The situation, the youth, and the prepossessing deportment of the prisoner, the appearance of the men of God with uplifted hands, engaged in pious devotion, the sound of praise, the venerable look of the magistrates, and the universal silence of the uncovered thousands who stood near the gibbet, made every beholder fancy himself in the very presence of death, and in the immediate presence of Jehovah.²

Davey did everything right. He seemed penitent. He sang part of Psalm 130, 'More than they that wait for morning watch my soul waits for the Lord.' He prayed. And he looked good. The *Scotsman's* reporter was touched:

His appearance was firm and unshaken, and his countenance exhibited a degree of mildness astonishing to those acquainted with the daring hardness of his character and exploits. The calm serenity was changed to an expression of grief. And he even shed a few tears on hearing an expression of sorrow burst from a few women assembled in Liberton's Wynd to catch a glimpse of his tall, slender person.³

¹ V.A.C. Gatrell, *The Hanging Tree; Execution and the English People 1770-1868* (Oxford: Oxford U.P. 1994), p vii.

² Aiton., *Animadversions and Reflections* pp.27-28.

³ *The Scotsman*, 21 July 1821.

But he regained his composure and after the prayers he bade an affectionate farewell. Before finally mounting the steps he delivered his dying words, admonishing the crowd to avoid the sins that had brought him to this end. He gave the signal to the hangman and was 'launched into eternity.' The people were 'deeply impressed' and stood the whole time, heads uncovered. Later they would be able to buy ballads and broadsides for a penny or even a little fragment of the rope for a bit more, to remember the day and what it meant.

The day would be literally unforgettable. The memory of watching another human being die painfully at an appointed daylight hour, ceremonially validated by men of God and approved by the magistrates would never go away, even or perhaps especially if you watched it from your mother's arms. John Dawson Burn was not sure of much about his own early life. 'Where or how I came into the world I have no very definite idea,' he wrote. But in a long and eventful life he never forgot something which happened when he was three or four. 'I remember the circumstances of being held up in my mother's arms to witness an execution; the person's name was Maitland Smith,' he recalled.⁴

George Combe was a boy when he too witnessed an execution in Edinburgh. Like Burn he had not chosen to attend but was carried along by the throng of people and saw it all. He was ashamed to find that even so young 'the spectacle of a man being put to death interested the base of my brain.' He also picked up the intense excitement around him:

⁴ John Dawson Burn, *The Autobiography of a Beggar Boy* (London: Europa, 1978) p. 40. Burn was born in extreme poverty. Self-educated, he became a hatter and then a publican. He had an eventful life and spent three years in the United States, later publishing an account of labouring men during the Civil War. His *Autobiography* went through four editions between 1855 and 1859.

If I recollect rightly the sufferer had been a letter-carrier, and had abstracted money from letters. He was dressed in a respectable suit of black clothes. When the white night-cap was pulled over his face to conceal its expression of dying agonies, and the white handkerchief had been placed in his hands, to be dropt when he was ready to die, the excitement was intense. In a very few minutes he threw the handkerchief down, instantly the bolt of the scaffold was drawn; and he fell and swung in mid-air by the neck. For a brief time he made no motion; then came death struggles fearful to behold; and in four or five minutes more all was still in that unhappy frame. The crowd of men, women and children then rapidly dispersed, and few remained to see the body cut down.⁵

The account is unusual, however, not just for its recognition of the primal excitement the experience touched within and around him but because the nightmare followed him home after dark. He left the house for some reason in clear starlight and 'behold, between me and the sky hung the executed criminal dangling in his black clothes. I looked twice and there he was—there could be no mistake. I uttered a scream, and ran into the house as if his ghost had been pursuing me.'⁶ Though he discovered the source of the illusion was his hat cord, sleep eluded him for many nights.

Executions were not for those of a nervous disposition and yet they were attended by men, women and children of all temperaments. Combe noted that some told savage jokes, indicating they were enjoying themselves while others expressed compassion for the victim and his family. As for himself, 'there was a chaos of emotion, one half of my faculties feeling ashamed of the other and no clear daylight discoverable on whether the execution was right or wrong.' In this chaos he was probably a great deal more like the rest of the crowd than he thought. It is in the nature of crowds that we cannot know what they thought, nor follow them home to see how many tossed and turned in the small hours or got quietly or not so quietly drunk.

⁵ Gibbon, *Life of George Combe*, vol. 1 p.33.

⁶ *Ibid.*, p.34.

The popular memory of execution days were held in the main, not so much in newspapers or the reminiscences of witnesses, but in broadsides, single sheets of paper often illustrated by woodcut images and sold by 'patterers' or 'criers' in the streets. They tell a version of the events at the scaffold, sometimes written even before they happened and seldom accurate in all things. The readers who paid a penny for the last thoughts of three men hanged in Glasgow a few months after Davey Haggart were not going to believe that they really wrote, 'These are our wishes and our prayers/ of Kidston, McIntyre and Dyer/ Who leave the world without a tear/ save for the friends they hold so dear.'⁷ People bought these things for a variety of reasons but not for news reporting or fine writing. But buy them they did, in their thousands. It was a period, especially in the eighteen twenties and thirties, when something like a 'tidal wave' of paper swept over the streets. As Leslie Shepard writes, the broadside ballad was 'a kind of musical journalism', its woodcut pictures a 'poor man's art gallery' and the streets were 'the libraries and bookshops of the masses'.⁸

A great deal more is known about the entrepreneurs who manipulated the masses and made fortunes out of them in England than their counterparts in Scotland. As deadly enemies James Catnach and John Pitts fought their turf wars in London's Seven Dials, Scottish publishers competed, perhaps in less flamboyant style in Glasgow's Saltmarket.⁹ Execution crowds could often choose between the output of John Muir, Thomas Duncan and William Carse, the differences being slight in an industry where

⁷ *Execution of Michael McIntyre, William Paterson or Kidston, and Wardrope Dyer* (Glasgow: 1821) University of Glasgow Murray Collection, Mu-1-x11/145.

⁸ Leslie Shepard, *The History of Street Literature* (Newton Abbot: David & Charles, 1973) pp.21, 23, 36.

⁹ Adam McNaughton, 'A Century of Saltmarket Literature, 1790-1890' in *Six Centuries of the Provincial Book Trade in Britain* ed. by Peter Isaac (Winchester: St. Paul's Biographies, 1990). See also Anon., *Curiosities of Street Literature: Comprising "Cocks" and "Catchpennies"* (London, 1871).

the format and even the phrases were standardised and woodcuts used over and over to illustrate different executions. Whether it was Paisley's George Caldwell or one of the legions of Edinburgh booksellers, like Alexander Turnbull, which also published broadsides, there were remarkably few regional differences. There are the inevitable details of the 'awful' crime, the trial, the story of how the clergy helped the criminal to repent, and details of his dying words, invariably exhortations to avoid Sabbath breaking, bad company idleness and drink. The inevitable 'launch into eternity' was accompanied by a confession 'in his own words' and often also pious hopes of God's forgiveness. On the surface it seems a monotonous formula. It takes more than this, surely, to explain their phenomenal sales, why Sir Walter Scott was so interested in them and why James Boswell tried his hand at writing them.¹⁰

With rare exceptions, almost nothing is known about the writers, or 'hacks' who produced them. They included turnkeys and lay preachers. There may also have been some overlap with the running stationers or patterers who marketed them. Certainly, in the case of the longer, more expensive and story-based chapbooks, Scotland produced some very colourful characters who wrote and marketed their own wares. In the eighteenth century Dougal Graham, the 'skellat bellman' became a legend as author and town crier in Glasgow. Half a century later, William Cameron, known as 'Hawkie', travelled throughout Scotland pedalling his cheap books, but was only forced back on his own creativity when his suppliers let him down.¹¹ He recorded profits of up to six shillings in three hours for popular works, though the fact that he

¹⁰ Scott owned a copy of the 1745 *Lives, Behaviour and Dying Words of the Most Remarkable Convicts*. See Sir Walter Scott, *The Heart of Midlothian* ed. Tony Inglis (London: Penguin, 1994) p 590 n.24.

¹¹ Shepard, *The History of Street Literature* pp 75-97. Other Scottish patterers discussed there are James Rankin, born blind in Aberdeen in 1770. Employed by the publisher Peter Buchan around 1828, he supplied ballads but also travelled throughout Scotland with them. Another was 'Mussel-mou'd Charlie', an Aberdeenshire minstrel known to Scott.

spent most of his life in bug-infested lodging houses suggests that the cravings of the masses for cheap literature benefited the suppliers more than the hacks and patterers. The printer John Muir appears to have appreciated the importance of a talented salesman, and visited Hawkie in his lodgings to secure his services for a 'crying' job he thought unsuitable for Irish accents.

Hawkie did not like selling execution broadsides, however. He had two bad experiences.¹² In April 1819 he and a colleague, 'Jamie' pattered a reprieve for Alexander Robertson, who was about to be hanged for breaking into the City Auction Market in Glasgow. They knew quite well that it was not going to be granted but chose to boost sales by advertising the drama of a cliffhanging ending. Jamie was taken to the police station whilst Hawkie escaped. He was not so fortunate in 1822 when he sold the dying words of pirates Peter Heaman and Francois Gautiez, which had been supplied to the criers the night before the hanging, ahead of anything like them being uttered. He was taken to the police station and after being released without charge he promised himself he would have nothing more to do with the selling of execution broadsides. It would have been surprising if the police had taken a serious interest in their activities other than to administer a mild fright if policing the crowd was proving tricky and their fabrications were an irritant—perhaps the case here, where a crowd estimated at between 40-50,000 had gathered. There was no convention of strict accuracy and only a self-imposed censorship.

The fascination of execution broadsides has little to do with accuracy, however, or even in exposing their untruths. They were compelling stories. Bad prose and worse

¹² William Cameron, *Hawkie: The Autobiography of a Gangrol*, pp.94-101.

moralising could not obscure their enduring human interest. They were about lives overtaken by terrible deeds and a death played out on a public stage. Of course their readers wanted to know where the culprit came from, what their families were like, what had happened to derail them from the straight and narrow, what they looked like, what they wore, how they slept the night before and what they said at the hour of death. If the task engaged the creative licence of the writers it also captivated the dark imagination of the readers. It was worth a penny.

Broadsides also fascinate the modern reader because of their ambiguities. They are not the script of what the victim said, though they frequently claimed to be. They are not an official 'secular sermon' either, for they were mainly written by anonymous hacks whose profits came from sales and not the government's purse—yet they frequently promote the lessons the government wants the reader to learn. They are not the mouthpiece of the readers though they may reflect their feelings, sometimes their disgust, and sometimes their sympathy for the victim or their sense of unfairness. But they are not overtly resistant to authority. Their value comes from the fact that they 'constituted an important point of contact between official ideas on law and order and the culture of the masses.'¹³ The points of contact invite questions. Were they static or fluid? Were some of them potential flashpoints?

Vic Gatrell finds the message and content of execution sheets 'determinedly decorous' and full of the language of repentance, retribution and warning. They posed no danger of subversion:

¹³ J.A. Sharpe, '“Last Dying Speeches”: Religion, Ideology and Public Execution in Seventeenth-Century England', *Past and Present* 107 (May, 1985), pp144-167, 162.

Scaffold sheets were never as dangerous or as tacitly subversive as the canting ballads were. They never spoke about the subjection of weak people to powerful. The execution of traitors or rioters was never described in terms which played into radical hands. If they did hint at criticism of the spectacle they battened on, it was usually through oblique allusion to the onlookers' pity, or through a profession of pity for condemned women (if young and pretty), or through the appropriation of opinions safely expressed in parliamentary debates on capital laws.¹⁴

This chapter looks at broadsides of executions in Scotland in the eighteen twenties and thirties for evidence of these 'hints' of criticism and 'oblique allusions' to pity, and asks whether they place any serious limits on the acquiescence of the crowd to the vengeance of the sovereign at a time of rising crime and more frequent hangings.

David Haggart was one of one hundred and twenty to hang between 1815 and 1830. To understand the version of his life and death that reached the streets, it is useful to set it in the context of the 'tidal wave' of execution broadsides.¹⁵

The victim: the art and illusion of dying well

It is no small accomplishment to die well on the scaffold. Some were so afraid that they attempted suicide in the days before it. Take for example Mathew Clydesdale who became famous when he appeared to rise from the dead in Professor Andrew Ure's anatomy theatre in the college of Glasgow in 1818. 'Galvanised' by an electric current, he had made involuntary movements that shocked the audience as much as the corpse. The agonies of anticipating death were compounded by fear of being opened up in front of strangers to reveal the last secrets of what was inside and it may have been this extra fear that caused Clydesdale to order a bottle of porter, break it,

¹⁴ Gatrell, *The Hanging Tree* p.164.

¹⁵ All the broadsides used here are in the collections of the National Library of Scotland or the Murray Collection in Special Collections, University of Glasgow. These are cited by their short titles.

and lacerate his arm, 'his object being to destroy himself'.¹⁶ The 'Haddington murderer' Robert Emond, convicted of murdering his sister-in-law and her daughter, was, according to a broadside, a suicide risk, so that 'watchmen were placed with him night and day, and the strictest search made on the persons of any of his friends who were admitted to him.'¹⁷ It seems that eighty-five year old murderer Allan Mair also 'had entertained the idea of self-destruction, by abstaining from food, which he did for four or five days after sentence.'¹⁸ The authorities did not like prisoners cheating the gallows and most were kept safe for the hanging. One exception may have been James Mackcoull, whose *Life* was discussed in Chapter three. He died a few days before execution, 'without God', emaciated, grinding his teeth and flailing around in his cell. It could have been a descent into madness or the result of taking poison brought to the jail by his wife.¹⁹ One way or another Edinburgh was denied a public spectacle that would have brought thousands of spectators.

There was not much an individual could do on the appointed day of his death to retain control of anything, including his bowels, but a good death was important to all parties. For the victim it was a matter of dignity and having some say in how he would be remembered by friends and family. He would be conscious, too, of the crowd and the hack writers who would give him a public reputation in gallows literature. The ministers of religion were uplifted by those who saw the errors of their ways and left with a 'fervent prayer' on their lips, thanks to their untiring work in the condemned cell. The state was vindicated when a man agreed on the steps of the

¹⁶ *Execution of Mathew Clydesdale* (Edinburgh: 1818), NLS Ry.iii a 2(6).

¹⁷ *An Account of the Execution of Robert Emond* (Glasgow: 1830) NLS F.3.a13 (84).

¹⁸ *Execution of Allan Mair, an old man of 80* (Glasgow: 1843) NI.S I.C. Fol.73 (122).

¹⁹ *Life and Memoirs of James Moffat* (Edinburgh: 1822) NLS Ry iii a. 2 (9) describing his death in detail but without mention of a possible poisoning, for which see James Mackcoull, *Memoir of the Life and Trial of James Mackcoull or Moffat* (Edinburgh: John Anderson, 1822).

scaffold that he was justly punished and relieved if there was no crowd trouble. The crowd admired courageous exits, calmness or pale resignation.

Clothes were important. Like most men in the eighteenth and nineteenth centuries and later, Davey Haggart had opted for a dark suit and was, in the broadside cliché, 'decently and sombrely' dressed.²⁰ A century earlier, male gallows fashion was more flamboyant. The English highwayman Sixteen String Jack Rann went to his death in 'a pea-green coat, a nosegay in his buttonhole, and nankeen small clothes tied at each knee with sixteen strings.'²¹ Even in douce Edinburgh Deacon Brodie cut a dash in 'a new dark blue coat, a fancy vest, black satin breeches, and white silk stockings, and his hair was fully dressed.'²² If clothes make a statement this was not about penitence. White had also been popular, either as a wedding suit or worse, a shroud. Boswell's sheep-stealer, John Reid, wore a white suit. In the nineteenth century, however black was the preferred colour, leaving less room to interpret the reasons for sartorial choices. Occasionally the black was set off by a touch of elegance. William McGheer hanged in Ayr in 1820 wearing a white vest and white trousers trimmed with black lace under a black coat.²³ Radical James Wilson, hanged for treason the same year also chose white bound in black and was 'decently dressed.' Weepers were a commonly reported accessory to trousers.²⁴ Sometimes the broadsides would add the word 'genteel' to black, carrying a sense of respectability in its tailoring. In some cases clothes would be chosen carefully, to convey self-respect, dignity, perhaps deference in some cases

²⁰ *A Full and Particular Account of the Execution of David Haggart* (Edinburgh: 1821) NLS Fol.74 (57).

²¹ Gatrell, *The Hanging Tree* p.33.

²² 'The Trial of Deacon Brodie', *The Scots Magazine* August 1788.

²³ Alex F. Young, *The Encyclopaedia of Scottish Executions 1750-1963* (Orpington: Dobby, 1998) p.84. This is a very useful reference work.

²⁴ James Wilson, *The Trial of James Wilson for High Treason with an Account of his Execution at Glasgow* (Glasgow: Muir & Gowans, 1832) p.46. Weepers were strips of muslin or cambric stitched on a garment as a sign of mourning.

and defiance in others. Most, however, were too poor to have many choices. The colour, size and quality of the clothes might depend on charity. In 1823 William Buchanan, William MacLeod and Thomas Donaldson were hanged for stouthbrief in Aberdeen and were 'gcnteelly dressed in black' thanks to a subscription raised by some young men in the city.²⁵

So few women were hanged that the broadside writers seldom had the opportunity to comment on what women wore to their deaths. It was a subject that mattered a lot to the women, if prison reformer Elizabeth Fry is to be believed. She wrote that the 'chief thought' of the condemned women in Newgate in the late eighteenth century, 'relates to her appearance on the scaffold, the dress in which she shall be hanged.'²⁶ Of the Scotswomen who were hanged between 1815 and 1830, there was Margaret Shuttleworth, who was dressed in black with a white apron and was clean and decent for her 1821 demise. Margaret Crossan, condemned for a fire-raising in which some cows died, wore a white robe and a cap knotted with black ribbons. Mary MacKinnon, with whom David Haggart consorted, was 'elegantly dressed in a black silk gown, trimmed with white lace at the bottom, silk stockings, and white slippers.' She was 'good-looking' and rather 'corpulent'. Belle Macmenemy, hanged for robbery in Glasgow in 1828 was stylish in a black bombazeen gown and white cap. A broadside explained how she looked so fine: 'It may not be improper to note, that this unfortunate female appeared at her execution dressed in a suit of clothes most generously bestowed by the Female Benevolent Society.'²⁷

²⁵ *An Account of the Execution of William Buchanan and William McLeod and Thomas Donaldson* (Aberdeen: 1823) NLS Ry iii.2(38).

²⁶ Quoted in Gatrell, *The Hanging Tree* pp.35-36.

²⁷ *An Account of the Last Dying Words and execution of Mrs Shuttleworth* (Montrose: 1821) NLS APS 3.96.15; *The Execution of Mrs McKinnon* (Edinburgh: 1823), Murray Collection, Mu1-x11/102. There were a few broadsides about her and 30,000 people attended. She kept a well-known 'infamous house'

The broadside hacks could have made it up. If dying speeches could be written the night before, there was no greater risk to veracity in inventing a wardrobe, since black and white combinations were quite predictable. Even if they were, the fact that it was assumed that readers would want to know how decent, sombre and genteel the central character was dressed, testifies to the importance of appearances. People dressed up for church, and for weddings and funerals. The condemned were acknowledging the grandness of an occasion when all eyes were on them, and the appropriateness of their dress was important. Whatever they actually wore on the day and whether or not they chose it, broadside reports of their attire seemed to will them to die well. It meant that, however temporarily, they were rehabilitated and approved for a few hours before being 'launched into eternity'. In that sense a hanging was the scene of a transformation, a sinner potentially redeemed by repentance. Broadside were an important medium in constructing this image.

Decorum was as important for a good death as dress. For the condemned person, the problem was how to deal with terror. Strong drink helped and many imbibed up to the last minute. Fear or drink, perhaps a combination in some cases, led to fainting. Some had to be helped to stand. Twenty-one year old post office clerk George Warden fainted before the hangman could get to the lever²⁸. Faces were searched for evidence of emotion. William Robertson, hanged in Ayr in 1817 shed a tear and his 'countenance wholly indicated a mind affected by the deepest grief.' He was so weak

and her life was of huge public interest See also *Life and Transactions of Mary McKinnon* (1823), Murray Collection, Mu1-x11/152: *The Execution of Thomas Connor and Belle Mcmenemy* (Glasgow, 1828) NLS L.C.Fol 73(103).

²⁸ *Execution of George Warden* (Edinburgh?:1819), NLS Ry iii a.2(8).

that he had to be supported by the rope even before he was hanged by it.²⁹ Murderer James Bell cried.³⁰ Many more showed composure and walked with a firm step. Among the bravest and most poignant were the deaths of four young men in Glasgow in 1819. Robert McKinlay, William Buchanan, Robert Guthrie and Alexander Forbes were two pairs of housebreakers. At the end McKinlay, who was twenty two, lifted his cap several times and 'kissed his companion Buchanan, whose hand he held till the last moment.' Buchanan was seventeen. The other two were 'much affected.'³¹ If accounts of David Haggart's death reflect any reality, he seems to have steered a perfect path between composure and the decent display of emotion. He was a good example of Henry Fielding's prescription for the good death which came to the man who 'if he has sense enough to temper his boldness with any degree of decency, his death is spoken of by many with honour, by most with pity, and by all with approbation.'³²

Those who died composed but trembling, even if it was an optical illusion, were co-operating with an idea of a redeemed sinner which made him acceptable to the prince and the people. Such a man was mildly but not dangerously heroic. The psalm singing and prayers added to the sense of community. The alternative was to die triumphantly and boldly, raging abuse at the government and telling the priests what they could do with their prayers. In Henry Fielding's experience, offering a platform to the condemned ran the risk that 'the day appointed for the thief's shame is the day of

²⁹ Alex Young, *Encyclopaedia*, p.78.

³⁰ *Execution of Bell, for the Murder of William Moorhead* (Edinburgh, 1835), NLS L.C.Fol.74(169).

³¹ *An Account of the Transactions of Four Unfortunate Men who were executed at Glasgow, on Wednesday the 3rd November, 1819.* (Glasgow:1819) Murray Collection, Mu1-x11/218.

³² Henry Fielding, *An Enquiry into the Cause of the Late Increase in Robbers, with some Proposals for Remedying the Growing Evil* (London: 1751) p.121 quoted in David D. Cooper, *The Lessons of the Scaffold: The Public Execution Controversy in Victorian England* (Athens: Ohio U.P., 1974) p.98.

glory in his own opinions.³³ There are very few reports of such deaths in Scotland in the second quarter of the nineteenth century, though that does not mean they did not happen. Broad­sides occasionally refer to 'hardened' behaviour. Thomas Chalmers seemed to think that swaggering was a London habit and greatly to be deplored:

It is the moral part of the exhibition that is so appalling. It is the firm desperate step with which they ascended to the place of execution. It is the undaunted scowl which they cast on the apparatus before them. It is the frenzied and bacchanalian levity with which they bore up their courage to the last, and earned, in return, the applause of thousands as fierce and frenzied as themselves. It is the unquelled daring of the man, who laughed, and who sung, and who cheered the multitude, ere he took his leap into eternity, and was cheered by the multitude, rending the air with approbation back again.³⁴

Chalmer's words were a warning. It was April 1820 when he delivered these thoughts on *The Importance of Civil Government to Society, and the Duty of Christians in Regard to it*. Two weeks previously, there had been an uprising at Bonnymuir, led by John Baird and Andrew Hardie, who would be executed along with James Wilson for treason a few months later. Defiant, raging deaths were to be discouraged if they provided a stage for unwelcome 'Dying Words'.

The great majority of the people who hanged at this time were described in the broadsides as responding well to the administrations of the clergy whilst awaiting death. Many hours were spent in fervent prayer and Bible reading. It was an important function of the broadsides that those about to be launched into eternity should be portrayed as repentant sinners. Death was justified because these sinners had fallen off the moral precipice we all live upon, they accepted the justice of their punishment

³³ Ibid.

³⁴ Thomas Chalmers, *The Importance of civil government to society, and the duty of Christians in regard to it: a sermon preached in St. John's Church, Glasgow, on Sabbath, the 30th April, 1820* (Glasgow: Chalmers & Collins, 1820) pp.336-37.

and yet they were not without the ultimate hope of God's forgiveness. It bound the hangman, the hanged and the onlooker into the same moral community, righteous in dispensing death, meek in accepting it. Thus even if condemned prisoners began by being rude and hostile to religion, their transformation was conveyed to the broadside readers approvingly. It usually occurred after an overdose of visiting clergy. John Thomson and David Dobie, the 'Gilmourton Carters' who hanged for rape and murder in 1830 were reported as being very rude and ill-behaved during their trial but changed greatly in prison when exposed to 'the indefatigable exertions of the Clergy.'³⁵ There is no strong case one way or another to prove whether this was genuine. Undoubtedly many turned to religion for comfort and the hope held out to them that God might be more merciful than the King.

Transformation was the theme of much that was written about Davey in chapbook and broadside. One writer observed that the poem he wrote in the condemned cell was written in a sense of bravado and 'just to show that his spirit could not be conquered.' After that, however, 'these wild and wicked thoughts soon left him' and his behaviour was exemplary. If anything, it was an advantage to have begun as lacking in knowledge of God as Davey was, since the road to prayer was all the sweeter, all the more gratifying to those who led him there. There was, however, just a note of doubt. The clergy, it was said, had given him the hope of mercy 'at least, such hopes as a poor miserable sinner like him could have, for his sins stuck close to him.'³⁶ All were agreed that Davey Haggart's mantle of piety was freshly acquired in the condemned cell and even he seemed doubtful that it was genuine enough to do him much good in

³⁵ *An Account of the Execution of John Thomson and David Dobie, for the Assault, Murder and Robbery of Margaret Paterson* (1830) NLS F.3a.13 (11).

³⁶ Haggart, *The Life and Adventures of David Haggart written by himself while under sentence of death* (Glasgow: 1821). It was written in the third person.

the next world. The Church of England clergyman who wrote a poem to mark his execution believed it was sincere, however, and that he wanted his father to know that he died in faith. He believed that it was faith that allowed Davey to present himself on execution day as untroubled:

His behaviour on the scaffold was cheerful and animated, more like a person going to partake of some entertainment, than of undergoing the dreadful sentence of the law; and the penitent conduct of the son has given his unhappy parent inexpressible consolation.³⁷

‘Going to partake of some entertainment’ does not sound like penitence. This was the young man who sat back and ate confections during his trial and the one who told George Combe that he hid his true feelings. He may well have been acting, as a way of coping, or in the hope of entering the legend of courageous scaffold deaths but it is just as likely that he was showing a bit of youthful defiance.

There are also two versions of Allan Mair’s behaviour at his execution in 1843 that suggest piety and remorse were often no more than broadside clichés. He was a very old man at eighty four and physically frail. He was convicted of the murder of his wife. He claimed his innocence and expected pardon but it never came. One broadside records nothing amiss at his hanging and tells how he prayed, but another account contains this wonderful piece of spitting fury quite unlike the usual sermon about Sabbath-breaking and bad company:

³⁷ A Clergyman of the Church of England, *The Convict: A Poem Occasioned by the Execution of David Haggart* (Edinburgh: McDonald & Allman, 1821). The notes record that Haggart asked whether his repentance didn’t arise from his circumstances rather than from offending God. ‘He candidly acknowledged that he was afraid he was more influenced by the former than the latter.’

The meenister o' the parish invented lees against me. Folks, yin an'a , mind I'm nae murderer. I ne'er committed murder and I say as a dyin' man who is about to pass into the presence o' his Goad. I was condemned by the lees o' the meenister, by the injustice of the Sheriff and Fiscal and perjury of witnesses. I trust for their conduct that a' thae parties shall be overta'en by the vengeance of Goad, and sent into everlasting damnation. I curse them with the curses in the Hunner an' Ninth Psalm-"Set thou a wicked man o'er them"-an haud on thee, hangman, till I'm dune-"An let Satan stand at their richt haun. Let their days be few, let their children be fatherless, let their weans be continual vagabonds'; and I curse them a....³⁸

The 'Dying Words' were ended prematurely by the executioner.

There were bound to be men and women who were enraged, not because they had swaggering natures but because they were innocent. Some took the opportunity of ascending the scaffold in front of thousands to make a protesting farewell. William Evans, condemned for forgery and hanged in 1816 at Ayr is reported as saying, 'I am a murdered man' as he went to his death.³⁹ Edward McRory, to whom the mutton soup was being taken in Dumfries jail when its bearer, Thomas Morrin, was felled by a blow from David Haggart, maintained his innocence to the end.⁴⁰ John Dempsey took leave of the world in 1820 with the words, 'Gentlemen, I am innocent of the crime charged against me.'⁴¹ Margaret Shuttleworth constantly and consistently denied murdering her husband and went to the gallows in 1821 with these words attributed to her by a broadside, 'I am innocent-I loved my husband- I love my life-Jesus Christ

³⁸ *Execution of Allan Mair, an old man of 80 for the murder of Mary Fletcher, aged 85* (Glasgow: 1843) NLS L.C. Fol.73 (120) notes that he showed knowledge of the scriptures and makes no mention of his curses, which are quoted in Alex F.Young, *The Encyclopaedia of Scottish Executions 1750-1963* P.115.

³⁹ Young, *Encyclopaedia* p.77.

⁴⁰ *Ibid.*,p89.

⁴¹ *A Full and Particular Account of the Execution of John Dempsey* (Edinburgh:1820) NLS Ryiii a2.(14). But cf. *An Account of the Behaviour of John Dempsey*, Murray Collection, Mu1-xii/56.

have mercy on my soul.⁴² It is intriguing that the parish register appears to show local opinion was on her side. It reads:

Margt Tindal [Shuttleworth] was executed in front of the jail, for the supposed murder of her husband HENRY SHUTTLEWORTH, having being condemned on presumptive evidence.⁴³

The authority of the law risked resistance if too many people believed that the person who was hanging in front of them was innocent. The state had a notion of a good death in which the victim and the crowd agreed it was deserved. This is the story contained in most of the broadsides, though there are hints that some victims were uncooperative with that version. Some did not oblige with repentance, and at least one was brought to the gallows in a halter, though none it seems rose to the wickedness of Honora Concannon, hanged in Ireland, who screamed and bit and kicked the hangman. She died an 'unrepentant perpetrator' and 'continued to invoke the most horrid curses on all concerned in causing her conviction and execution.'⁴⁴ If Margaret Shuttleworth was innocent, she at least played her part by warning of the dangers of drink. Nobody really knows what was said from the scaffold steps. These were edited deaths, with the sounds of choking, fear and anger muted. Godlessness, rage or innocence got in the road of a good death.

The discriminating crowd

⁴² *A Full and Particular Account of the Execution of Mrs. Margaret Tyndal or Shuttleworth* (Montrose: 1821) NLS Ry iii a.2 (21).

⁴³ Quoted in Alex F. Young, *Encyclopaedia* p.93.

⁴⁴ *Trial and Execution of a Murderess: an Account of the Execution of Honora Concannon* (Glasgow 1824) Murray Collection, Mu 1-x11/ 13.

The spectators also had an important role to play. The authorities wanted them to see with their own eyes, to be afraid, to learn the lessons of the scaffold and to render what Foucault calls 'scaffold service.' This meant that the crowd had to be guarantors of the punishment, and to 'bring its assistance to the king when the king undertook 'to be avenged on his enemies', especially when these enemies were to be found among the people.'⁴⁵ They also had a right to be there to see justice done in public.

They came in their thousands and did so willingly. Stories abound about their licentious behaviour, the coarse jokes, the drinking, the vice and petty crime on display. Though some historians have compared them to carnivals, they were more complex, more ambiguous spectacles.⁴⁶ Dugald Stewart, so berated by phrenologist George Combe, was one of the first to observe in crowd behaviour a 'contagion of sympathetic imitation', subject to the senses and imagination rather than reason.⁴⁷ It is the dark side of this imitation which was often evident at hangings when spectators shared a ghoulish primal excitement, laughed, and shrieked at the drop. There was bound to be voyeurism there, a fascination with pain and death which verged on the pornographic, and a pleasure that it was happening to somebody else. Many did exactly what they were there to do, 'to bear witness to the might of the law and the wickedness of crime and to internalize these things.' Vic Gatrell is an astute student of the execution crowd at Tyburn and looks beyond its apparent callousness and cruelty to find some very plausible currents of fear and sympathy. The anonymous writer of the *Animadversions* against Haggart's *Life* had noted that, as the crowd stood

⁴⁵ Michel Foucault, *Discipline and Punish: The Birth of the Prison* trans. Alan Sheridan (London: Penguin, 1977) p. 59.

⁴⁶ See T.W. Laqueur, 'Crowds, carnivals and the English state in English executions, 1604-1868' in A.L. Beier (ed), *The First Modern Society: Essays in Honour of Lawrence Stone* (Cambridge: Cambridge U.P., 1989) p.339.

⁴⁷ Gatrell, *The Hanging Tree* p.71.

silent at the gibbet, the scene 'made every beholder fancy himself in the very presence of death'. It was the crowd's fear of just that, writes Gattrell, that produced displacement behaviour:

Defence took many forms. Laughter was one; anger another. Some identified with the sheriffs, the executioner; for to identify with the aggressor against his victim is a standard defence against fellow-feeling when fellow-feeling must be fruitless. 'Hysteria' likewise blocks the acceptance of sympathetic pain. So closer analysis takes us away from the easy distaste for the scaffold crowd with which we began. Although in all these conditions the suffering individuality of the victim might be neither felt nor seen, the reasons had more to do with the crowd's fears and weaknesses than with its innate callousness, ghoulishness and bullying strength.⁴⁸

The broadside versions people bought as souvenirs helped assimilate or render less powerful the emotions of the day. The story they told was a more rational, acceptable version. Some bought other, less rational mementoes—bits of rope, clothes and even bits of skin for tanning. Some of the deepest superstitions were on the wane, however, including a belief in the power of the touch from a hanged man's hand to cure tumours.⁴⁹ In just a few years, men of sensibility would be ashamed of their excitement and voyeurism, but it was not just the 'avalanche of ordure' as one observer described the crowd at a Glasgow hanging who were strangely attracted to the gallows and its relics. James Boswell commissioned paintings and George Combe made casts.

Like the victims, the crowd had only limited choices, subject to the coercive structures of the state. They consented. The broadsides sometimes reveal, however, that consent was also limited and that authorities were nervous, certainly in the years

⁴⁸ Ibid., p. 76.

⁴⁹ Charles Mackay, *Memoirs of Extraordinary Popular Delusions and the Madness of the Crowd* (London: 1852) pp306-307.

of dislocation after the Napoleonic Wars when there was an increase in crime and political unrest. There were at least four situations to worry the magistrates; most murderers could be hanged confidently, but political radicals could trigger crowd hostility; too many hangings, especially where the sentence appeared disproportionate, could strain public tolerance; young or pretty people could attract too much sympathy; and most of all, the suffering caused by botched hangings could trigger retaliatory violence against the hangman and even a rescue attempt. Between consent and resistance there were dangers to authority if the crowd cheered insolence or made broadside heroes out of sinners.

The hanging of a murderer, as Davey Haggart was, rarely caused trouble. They did not occur very often. In Scotland between 1815 and 1830, only 31 murderers were hanged, out of a total of 120.⁵⁰ Sometimes the crowd was more than enthusiastic.

When William Hare was hanged for murders that were regarded as especially vile and inhumane, over 20,000 spectators shouted and hissed, apparently savouring his every indignity, every pain.⁵¹ They greeted 'every convulsive motion' with 'a loud huzza...several times repeated, even after the long agonies of humanity were past.'⁵²

There was not much sympathy either for those like James Glen, hanged in 1829 for throttling his infant son and throwing him into the Clyde.⁵³ The execution of Robert Emond for the brutal 'Haddington' murders in 1830 won as much public approval as Burke's.⁵⁴ The broadsides recording Davey Haggart's death, on the other hand, reflect

⁵⁰ The statistics are drawn from Alex F. Young, *Encycopaedia*.

⁵¹ Owen Dudley Edwards, *Burke and Hare* (Edinburgh: Mercat, 2nd ed. 1993) p.286.

⁵² Quoted in Gatrell, *The Hanging Tree* p68.

⁵³ *Account of the behaviour in confinement and on the scaffold of James Glen* (Glasgow, 1827) NLS L.C.Fol.73(98).

⁵⁴ *An Account of the Execution of Robert Emond* (Edinburgh: 1830) NLS F.3.a 13(84)

an acceptance of his punishment but no bloodlust.⁵⁵ He had the makings of a hero, clever, lively and bold, if only, as one hack wrote, he had used his skills to break out of jail rather than kill the jailor.⁵⁶ In its regretful tone it brings to mind the Great Train Robbers of more recent history, celebrated for their bravado if only they had refrained from violence against the driver. Amongst murderers, the broadsides reflect the crowd's distinction between bad deeds and evil people. They stood hatless and silent for Davey.

The great majority of those who hanged were convicted of lesser crimes, mainly robbery and theft. The proportions, though not the numbers, are similar to England, where about 80% of hangings were for crimes other than murder between 1805 and 1850. In England the authorities were aware that too many hangings risked public resistance and tackled this problem by liberal use of the prerogative of mercy. In Scotland, despite a more sparing use of the gallows and an equally sparing use of reprieves, there are hints in the broadsides of public weariness with the number of hangings for lesser offences. Hangings peaked in the years around 1820. There were 13 in 1817, none of whom were murderers, 11 in 1820, again none of whom were murderers, 11 in 1821, the year of Davey's execution, though five were for murder. The peak year was 1823, with fifteen, of which four were murders.

Around this time there was a noticeable change in the 'editorials' of the broadsides. There is a sense of anxiety. The streets are not safe. More houses are being broken

⁵⁵ There are a number of broadsides. See *A Full and Particular Account of the Execution of David Haggart* (1821) NLS L.C.Fol.74 (53) and *The Full Account* (1821) NLS L74(27) and below, n.55.

⁵⁶ *Execution of David Haggart, The Wonderful Conjuror* (Edinburgh, 1821) Murray Collection, Mu-x11/173b.

into and 'the morals of the people are losing ground.'⁵⁷ Two apparently contradictory messages followed from that. It was increasingly important that the lessons of the scaffold be taken seriously and that the young see what happens when the rot sets into a life. The broadsides continued to labour that message, warning readers to look at and learn from Thomas Donachy, executed in the Gorbals for housebreaking and theft in 1822.⁵⁸ Yet this was just a seventeen years old boy of Irish descent, who had stolen some bottles of wine. His death 'excited sympathy' in the crowd and necessitated the presence of a 'strong guard' to preserve order.' It was not needed, for 'the crowd was not as great as in former occasions, owing to the frequent examples which are now taking place.' This was the second message. Hanging was not working. There was no sign that the number of offences was decreasing. More than that, it would seem that the crowd was increasingly grudging in its acquiescence. Though the authorities insisted on making an example of John Ritchie because his offence, of sheep-stealing, was increasing, many among the Aberdeen crowd left, unable to watch a seventeen year old die for thirty sheep—a first offence at that. His was the last execution in Scotland for this crime.⁵⁹ William McTeague's execution for forgery in 1824 was accompanied by a broadside questioning the justice of hanging a man for this offence. It 'only excites compassion in the breasts of all the spectators.'⁶⁰

For many lesser offenders, the sympathy of the crowd seeped through the cracks of the broadside rituals of condemnation. Most of the hanged were poor and

⁵⁷ *Execution of John Buchanan* (1817) Murray Collection, Mu1-x11/143. Typical of the rising fear of crime was *The Glasgow Spy: Or the Works of Darkness Laid Open* (1821) Murray Collection Mu 1-x11/50.

⁵⁸ *An Account of the Execution and Behaviour of Thomas Donachy* (Glasgow: 1822) Murray Collection Mu xi-11/105a. A less favourable account is *An Account of the Life, Transactions, and Execution of Thomas Donachy* Murray Collection Mu1-x11/175.

⁵⁹ Alex F. Young, *Encyclopedia* p.80. It was a curious coincidence that he shared a name with Boswell's client in 1774.

⁶⁰ *An Account of the Behaviour and Execution of William McTeague* (Glasow?: 1824) Murray Collection Mu 1-x11/ 88.

unemployed. A remarkably high number were also Irish and Catholic. Not that this was likely to generate sympathy. It is more likely that Irishness helped to create an image of 'social otherness' which distanced the observer from the victim. Catholics were more likely to hang. Francis Cain was one of many. His five Protestant companions escaped the gallows and, according to the broadside, he felt that he had suffered discrimination.⁶¹ When he alone was put into solitary confinement he felt that the punishment 'was inflicted on me in consequence alone of my embracing the Catholic religion.' Nonetheless, occasional editorials in these sheets were moving away from sin or nationality as an explanation of crime to suggesting the need to provide useful work. Unemployment was swelling the numbers 'who must either steal or starve.' The writer diagnosed cause and effect: 'To this may be attributed the number of executions which have lately taken place, and the numerous thefts which are still carrying on.'⁶²

It may also be indicative of a changing mood and the desire to avoid the rumbling discontent of the crowd that in the mid eighteenth twenties, the magistrates of Glasgow decided to alter the hour of execution from the middle of the day to 8am. It was noted that as a result 'the crowds were not so numerous since the alteration of the hour of execution.' One writer lamented the change. Commenting on the 1831 execution of James Campbell for housebreaking he wrote, 'the unceremonious quick morning dispatch is certainly no improvement on previous ceremonials.'⁶³ There were other

⁶¹ *Dying Declaration of Francis Cain* (Glasgow:1823) Murray Collection Mu1-x11/134. He originally claimed that it had been suggested to him by 'a tall Protestant' that his Catholicism might militate against a reprieve, and so he asked that Mr Scott (who attended Catholics awaiting death) not to come. But he recanted and openly acknowledged his religion.

⁶² Another example is from *An Account of the Behaviour since his condemnation and on the scaffold of John McCreevie* (Glasgow?:1824) Murray Collection Mu1-x.11/165b reflecting that 'if every person would be allowed to gain a home and livelihood...it would prevent a number of crimes.'

⁶³ *Execution of James Campbell for Housebreaking and Theft* (Glasgow: 1831) NLS L.C.Fol.73(112).

things that could affect crowd turnout, ranging from the notoriety of the victim to the state of the weather. There was a change, however, in the broadside coverage which suggests the authorities were nervous of hanging too many poor people for too many minor crimes in front of too many people. The big crowds still turned out for the unusually depraved, for fallen gentility, for a female, or if the execution coincided with a fair holiday, but by the late 1830s hangings were very infrequent, down to one or two a year and in effect reserved for murder. The lessons of the scaffold were for the authorities as well as the people. It was a point well made by Sheriff Archibald Alison:

Sentence of death should be confined to cases of the most serious crimes and never carried into execution unless under circumstances in which the general opinion of mankind goes along with its infliction.⁶⁴

The riskiest executions were those of James Wilson, Andrew Hardie and John Baird for their parts in the 'Radical War' of 1820 when a planned uprising came to an end in a bloody skirmish at Bonnymuir. These were men whose dying words could be an incitement that had nothing to do with breaking the Sabbath.⁶⁵ Not only were they to be hanged but, as traitors, the law demanded their heads chopped off. Wilson, a dignified sixty three year old, was executed at Glasgow and made a written declaration, 'I meet my fate in the calmness and tranquillity of a man who is decidedly conscious of suffering innocently...I die a true patriot for the cause of freedom for my poor country.' He was cheered by a large crowd and his beheading brought forth cries of 'Murder! Murder!' At Stirling, Baird and Hardie attempted to deliver their address on truth and justice but were silenced by the Sheriff. The danger

⁶⁴ Archibald Alison, *Autobiography* vol 1p.477, quoted in Archibald Alison, *Principles of the Criminal Law of Scotland*, Introduction to the 1989 Reprint.

⁶⁵ *A Particular Account of the Execution of James Wilson, from Strathaven* (Glasgow:1820) GU Murray Collection Mu1-x.11/65; *Execution; A Particular Account of the Execution of John Baird and Andrew Hardie* (Glasgow: Muir, 1820) NLS L.C. Fol 73

of disorder came closer still when it took three attempts to hack through Hardie's neck. In both cases the evident arousal of members of the audience was countered by a heavy military presence, which, in Wilson's case amounted to the greatest display of military force that ever attended an execution in Glasgow.

Executing pretty or vulnerable criminals was not as risky as political offenders but the versions of their hangings that reached the streets reflect an ambiguity in the response of the crowd. Part of the crowd's curiosity was to see and interpret faces. They had their own version of physiognomy passed down through the spaewives and there was no room for Shakespeare's warning that 'there's no art can find the mind's construction in the face.' People knew what hair colours portended or what a broad mouth or a lean wrinkled chin meant.⁶⁶ Poor Robert Emond had a small wrinkled forehead, and was despised while Robert Smith, who was small, attractive and curly won sympathy. Pirates Peter Heaman and Francoise Gautiez cut a romantic dash that had the crowd reaching for money to help the latter's French wife. Young men and presentable women were often given a sympathetic press.

It is unsurprising that Davey Haggart was the beneficiary of this tendency. Henry Cockburn recalled that he was 'young, good looking, gay and amiable to the eye' and that his 'youth and apparent gentleness, joined to an open confession of sins, procured him considerable commiseration, particularly among the pious and the female.'⁶⁷ Women wept. One of them, who claimed to have had a relationship with him from schooldays, contributed an elegy. It was one of resignation, however, rather than resistance and it contributed to the familiar homilies against sin:

⁶⁶ *The Spaewife or Universal Fortune-Teller, Wherein Your Future Welfare may be known by Physiognomy, Cards, Palmistry, and Coffee Grounds* (Glasgow:c.1850).

⁶⁷ Cockburn, *Circuit Journeys* p.211.

O woe is me! What shall I say;
 Young David Haggart's gone;
 I did not think when at the school,
 He's die a tree upon.

But what's ordained must come to pass,
 Why should I then repine?
 I hope he's better than when here,
 Altho he had been mine.

To see him come up Libberton's Wynd,
 It filled my heart with grief;
 But when he came upon the stage,
 It yielded some relief.

There followed many lines about how pleased she was to see him pray and how his fate is a lesson to us all. The last stanzas may not have intended to make him sound more interesting than humdrum life but they do:

Three score and ten years do sum up
 Our days and years we see
 Or if by reason of more strength
 In some four score they be

David Haggart tho' but a youth,
 Was very old in sin;
 May those by him a warning take,
 Who the same course are in.

Hail, sober dullness! Ever Hail!
 Young Haggart's at his rest,
 I hope he is enthroned above
 And is for ever blest.⁶⁸

David Haggart attracted the pity of the crowd, and the sighs of the women but pity alone was not enough to undermine the acquiescence of the crowd. The one and only thing that could do that was the incompetence of the hangman.

⁶⁸Anon., *Elegy on the Death of David Haggart by a Young Woman who was at School with him* (Edinburgh: Adams, 1821).

It was a terrible job. It had no status and although it sometimes came with a rent-free house and a salary, most of the executioner's income came from fees for hanging, whipping and pillorying people. Glasgow's hangman for twenty three years was Tam Young who earned £50 a year and a guinea for each hanging in addition to a house on the prison grounds and a pair of shoes twice a year.⁶⁹ This made him better off than most labourers. He was reasonably competent at hanging though he was not thought to be a skilled flogger, and he was sometimes called to other towns. At his first hanging in Glasgow in 1815 the Glasgow Chronicle commented, 'He appears to know his business'.⁷⁰ Nonetheless he presided at an execution in Edinburgh in 1819 which illustrates how unpredictable the crowd could turn if their sympathy was fuelled by the prospect of a messy hanging. The victim was George Warden, a post office clerk convicted of abstracting money from letters. He had, according to the broadside, been an exemplary character and 'almost unexampled efforts' had been made by his counsel and persons of high rank to secure a pardon. As he ascended the drop 'a burst of sorrow arose from the crowd, at seeing such a genteel young man in such a melancholy situation.' He was in such a state that he needed to be propped up by two men but they left him alone too quickly and he fainted, dropping the handkerchief twenty or thirty seconds before the executioner drew the bolt. There was an expression of horror from the crowd and shouts of 'Let down the drop!' It was fortunate, according to this account, that nothing obstructed the drop or there could have been serious consequences, owing to 'the interest and sympathy which was so universally felt for the unhappy criminal. As it was, some of the crowd ran from what they feared might be a scene of unscheduled violence.'⁷¹

⁶⁹ James Bland, *The Common Hangman: English and Scottish Hangmen Before the Abolition of Public Executions* (Westbury: Zeon Books, 1984) pp.123-128.

⁷⁰ Quoted in Alex F. Young, *Encyclopaedia*, p77.

⁷¹ *Execution of George Warden* (1819) Untitled newspaper report, NLS Ryijia.2.

It was a scene which can only be fully appreciated in the context of what had happened just a few months earlier. Tam Young had been invited to Edinburgh to execute Warden because the city's own hangman had been fired after a dreadfully botched hanging that had resulted in a mob rescue and a pitiful re-hanging. It was December 1818 and the events were witnessed by an 'Eyewitness', who used that pseudonym to file his account in the *Scotsman*. The evidence suggests that it was in fact Henry Cockburn, who was on a visit to the Society of Writers to the Signet, where he wanted to consult a book but found himself caught up in the turmoil surrounding the hanging of Robert Johnston, a twenty-two year old convicted of highway robbery.⁷²

Edinburgh hangings usually took place in the Grassmarket, but on this occasion a scaffold had been set up close to St. Giles. The warrant ordered the hanging to take place between 2pm and 4pm. The magistrates paraded in their red gowns with much 'stupid solemnity' according to Eyewitness. About half past two, Johnston was brought out. The 'convulsive efforts he made to appear composed, when he submitted his neck to the noose, was appalling beyond description.' What happened next brought the crowd to boiling point. The drop was too short and Johnston's feet remained on the platform as he suffered a partial compression of his windpipe. He suffered an agony that was almost as unbearable to the onlookers as it was to him. The magistrates watched. The City Officer, Archibald Campbell called for a carpenter to cut away the wood below the table to lengthen the drop. When they arrived they

⁷² Anon., *Letter to the Magistrates of Edinburgh on the Execution of Robert Johnstone by an Eyewitness*, reprint from *The Scotsman* (Edinburgh: Turnbull, 1819). A copy in the New York Public Library attributes it to Cockburn. I am grateful to Steve Weissman of Ximenes Rare Books for this information.

chopped away at the wood with their axes for ten minutes while Johnson convulsed. The crowd crossed the line from acquiescence to resistance. Stones were thrown. A man jumped out of the crowd with a knife and cut Johnson down. Others reached out to receive this dishevelled half-dead man into their arms and carry him off up the High Street. The magistrates ran to the safety of St Giles while the police chased the rescue party. For an anxious half hour the scene, according to another account, 'equalled in horror anything ever witnessed in Paris during the Revolution.'⁷³ Eventually the police brought a nearly naked Johnson back, bundled him into the police office at the cathedral and called for a surgeon. It was not the prelude to mercy. The surgeon bled him. There were signs of life and, the crowd now quieted by a strong military presence ordered out by the magistrates, it was deemed safe to hang him again. Just before four o'clock he was suspended from the rope. Johnson's final release only came after a continuation of his torture. The hangman got up on a chair to disengage the man's fingers, which he had somehow worked loose and were now clawing at the rope around his neck. It was 'a spectacle which no human eye should be compelled to behold.' It was twenty-three minutes past four before it was all over.

There was furious public correspondence about it, some of which subjected the magistrates to scorching criticism for their cowardly behaviour, poor policing of the event and inattention to their duties. Others, though fewer, made improbable defences and blamed the mob.⁷⁴ Only the novice hangman John Simpson and the master of

⁷³ 'Vindex', Letter to the Rt Honourable the Lord Advocate on the Execution of Robert Johnston, Dec. 30, 1818. (Edinburgh: George Ramsay, 1819). 'Vindex' was William Garson.

⁷⁴ 'Civis Edinensis', *Letter to the Citizens of Edinburgh in which the Cruel and Malicious Aspersions of an 'Eye-Witness' are Answered and the Conduct of the Magistrates is Placed in its True Light*, (Edinburgh: 1819); 'Amicus Veritatis', *An Address to the Inhabitants of Edinburgh on the Outrages Committed on the 30th December and the Statements of Various Publications Regarding the Conduct of the Civil Powers* (Edinburgh: Guthrie, 1819). The debate was fuelled by politics, with Cockburn and the Whigs ranged against the Tory-held magistracy.

works paid the price of losing their jobs. The most thoughtful *post mortem* on what had happened was by *Vindex* who raised important legal issues.⁷⁵ The warrant had stipulated that the hanging was to take place between two and four. Although the re-hanging began before four it finished after that hour. As a deviation from the terms of the warrant, it should have been referred to the Court of Judiciary, which alone had the power to vary its terms. More seriously, how could they be sure that the man they dragged back to the scaffold was the same one who had been carried away? The magistrates were obliged to prove that it was, to the satisfaction of the law. Hume's *Commentaries* also appeared to support the view that if a person survived a hanging the magistrates could not, on their own authority, 'gain a title to aggravate the sentence'. The case of Margaret Dickson was cited. Hanged, or at least half-hanged in 1724 for child murder she revived and continued to live with her husband in Edinburgh for many years. In fact the law was unclear and not all the questions raised by Johnson's case had been addressed. Hume seems clear enough, however, that the magistrates and hangman were not themselves answerable on a murder charge:

Suppose that the multitude rescue the criminal, and keep him for a time in their hands, so that the appointed hour has passed before the last step of the execution; In both instances either there is no crime at all; or at the worst it is a misdemeanour, of a nature quite remote from murder, and punishable with fine or imprisonment only.⁷⁶

It was a solemn warning, however, at a time when few things were feared by the authorities as much as an execution crowd, assembled to be, in Foucault's words, 'an unobtrusive part of the vengeance of the sovereign' that rejected its role and became a mob.⁷⁷

⁷⁵ See note 69 *supra*.

⁷⁶ Hume, *Commentaries* Vol 1p196.

⁷⁷ Foucault, *Discipline and Punish* p. 59.

David Haggart was hanged just eighteen months after that. He was a more heroic figure than Johnston and attracted sympathy. Another botched hanging was not to be contemplated and there were soldiers on hand. They were not needed. Thomas Williams was John Simpson's successor and conducted the execution without mishap. Williams himself 'died a strac-bed death' at sixty-six in 1833 after twelve years in the job, in which he 'conducted himself with wonderful propriety which few does in his line', according to his broadside *Elegy*.⁷⁸ The same could not be said of his son, who inherited the job. He conducted only three executions, of which two ended when he was stoned by the crowd and had to run. He resigned the day after the last one, at which both he and the victim, James Bell, cried.⁷⁹

Vic Gatrell is right. The broadsides were never manifestos of radical dissent. They were, however, important manufacturers of images, and barometers of any caveats to acquiescence. There was evidence that, in the eighteen twenties particularly, there were some nervous moments for the authorities and some palpable unease in the crowds about the frequency of hanging people who were too like themselves. David Haggart's broadside death, however, was very satisfactory. He was composed and courageous, winning the hearts of the women at the top of the Wynd and the respect of the thousands who stood silent and hatless. He seemed to join in the prayers, which was gratifying for the Reverends Porteous and Grey and all the men of God and rewarded them for the many hours they spent with him. Yet he did not step over the boundary from errant youth to defiant challenge. Indeed it was said he warned others

⁷⁸ *Elegy and Epitaph on Thomas Williams, Late Dempster, or Hangman, of the City of Edinburgh* (Edinburgh: 1833) NLS. Responses to the hangman were not usually so civil.

⁷⁹ Alex F. Young, *Encyclopaedia* p. 110.

against imitation.⁸⁰ It was a version that allowed his nasty death to be assimilated into the reader's or spectator's values, to tame the terror. He died well, a credit to his transformed self. There was just that hint of uncertainty—the clergyman who wrote that it was as though he was going to some entertainment rather than his death. The publication of his *Life* must have added further doubt as to how sincere his transformed self was. On the eve of publication, the *Scotsman* offered the opinion that 'we are in no doubt, from what we have learned of his life and character, that society is well rid of him.'⁸¹ All that we can safely say of the crowd is that they acquiesced, in silence and in some cases, tears.

⁸⁰ Not all the broadsides record this. *A Full and Particular Account of the Execution Of David Haggart* makes no reference to it, though *A Full Account of the Execution of David Haggart* L.C.74 (57) agrees with the *Scotsman* that he did. He 'particulary addresses himself to the young and told them, that by breaking the Sabbath, beginning with small crimes, would infallibly lead to greater. Before ascending the drop, he fell down and prayed most fervently.'

⁸¹ *The Scotsman*, 21 July 1821.

CHAPTER 6

'SINFUL DAVEY': THE CINEMA VERSION

David Haggart's life reached the big screen in 1969. *Sinful Davey* was directed by the distinguished American John Huston and starred the young John Hurt as Davey, with Nigel Davenport as the tenacious Sheriff Officer John Richardson in hot pursuit.¹ None of this talent was enough to save it from box office mediocrity and subsequent obscurity. The movie was, therefore, a metaphor for the fate of its subject. Real and lasting celebrity eluded both David Haggart and *Sinful Davey*, despite their high hopes and reasonable prospects. Just five years earlier, *Tom Jones*, Tony Richardson's adaptation for cinema of Henry Fielding's classic novel about another youth who was 'certainly born to be hanged' won four Academy Awards and huge popular acclaim. There was a lot about David Haggart that lent itself to a similar treatment. His *Life*, like Fielding's novel, offended respectable opinion and sold well. It brimmed with crimes that were, in less judgmental terms, 'capers'. There were chases and hasty exits from windows, and plenty of carousing and womanising. At its heart was a young man whom even a phrenologist dedicated to finding the worst in his nature could not altogether explain. He was likeable. *Sinful Davey* made him a comic hero in a picaresque romp about which one film critic had this to say:

A sort of ramshackle *Tom Jones*, occasionally tiresome but shorn of Tony Richardson's artistic pretensions, it looks attractive, is played with infectious good humour by the entire cast, and boasts an engaging performance from John Hurt as the artful dodger of the title.²

¹ *Sinful Davey* (Ardmore Studios UK: 1968) was filmed in Wicklow, directed by John Huston, produced by William N.Graf. The credits name David Haggart and James R.Webb as the writers.

² *Time Out* <[http:// www.timeout.com/film/](http://www.timeout.com/film/)> [accessed 20 September 2005].

This was transient light entertainment and need not be analysed for signs of serious artistic value. Nor will it support any weighty conclusions about crime and punishment in early nineteenth century Scotland. The plot is frequently far-fetched and need not detain us in measuring it against reality. Yet there is something about the techniques it uses to 'purify' Davey through comedy that touches a central problem of 'criminal celebrity' across the two centuries from Haggart's *Life* to Huston's *Sinful Davey*. What do we do with the 'sin' or the 'crime' in order to treat the perpetrator as someone whose achievements or character we might quite admire?

Davey is introduced as a boy drummer, so keen to avoid a regimental posting in London that he leaps off a bridge into a river, heedless of his officer's shouted warning, 'Ye canna swim'. This was faithful enough to the thoughts that the historical Haggart shared with readers of his *Life*; a man born to hang will not drown. Escaping arrest as a deserter he falls into the bad company of one John McNab, who will teach him some pick-pocketing tricks and enjoy a few escapades with him. The character is probably loosely based on Barney Maguire, Davey's longest serving accomplice who was himself hanged in 1830, and whose execution broadside made a sales pitch out of advertising his role as teacher of the 'late, notorious Haggart'.³ Standing together at a cairn on a hillside Davey stakes his claim to an honourable motive and tells McNab of how he intends to honour his father Willie by following in his footsteps. Unlike Davey's real, distraught father, this Willie Haggart was 'upsides with Deacon Brodie' but was hanged at Stirling aged twenty-one before he could fulfil his potential. Poor Davey, it seems, was brought up in the workhouse and his mother died after she confirmed that Willie was indeed, out of many possible contenders, his father. Pride

³ M'Guire, Barney, *A full and particular account of Barney McGuire, the bosom companion of the late well known David Haggart* (Edinburgh: 1830)NLS Ry.iii.a.2 (98).

in the Haggart name may have been an improbable star to guide the young Davey but it imbues his character with idealism. The technique quite neatly and comically reverses the broadside strictures on poor parenting by making criminal celebrity a legitimate aspiration and giving Davey a lineage to be proud of.

Davey follows his father's footsteps in style and much of the film is a romp, drawing on some of the stories in Haggart's *Life* and inventing many more. The common theme is that all his misdemeanours were more or less harmless to society. He lies and cheats, impersonates nobility and steals either from worse rogues or from 'fair game' in the person of the wealthy Duke of Argyll, an adversary inherited from his father. As proof of how harmless all this is, the Duke, played stylishly by Robert Morley, comes to love him and even to plead for his life at trial on the grounds that he is 'an entertaining fellow.' Missing from all this is the murder of Thomas Morrin in the course of the Dumfries jailbreak. Murder is an uncomfortable obstacle to approving even a personable delinquent whose exploits may otherwise be explained comically.

Law and order is represented by the Constable, surely based on Dumfries Sheriff Officer John Richardson, who showed considerable determination in tracking Davey Haggart down in Ireland, despite the very real difficulties of policing a nomadic population and recapturing an energetic fugitive from justice. *Sinful Davey* mocks the efforts of the law officers quite as cheekily as Haggart mocked the 'bulkies' in his *Life*. Richardson frequently fails to identify Davey even when travelling in the same coach and when the final chase leads to capture it is because Davey is knocked out by a flying golf ball and not through the skills of the 'constable' who ends up falling from his horse into a mud bath. A frog croaking on top of his head is a visual

reminder, if it were needed, that the forces of law and order are not a serious competitor for the affections of the audience.

Where the forces of law and order leave a void, it is Annie McTaggart, played by Pamela Franklin, who, tongue in cheek, supplies the moral boundaries for a twentieth century cinema audience. The title 'Sinful Davey' was, for a twentieth century audience, not loaded with the guilt and hellfire that attached to it in Davey's time, when the anonymous writer of the *Animadversions on the Life of David Haggart* reflected, 'What a solemn lesson does the short and sinful life of this man teach!'⁴ In the nineteen sixties, explanations of delinquency were sociological and 'sin' was fun. Annie is an inspired creation, surely based on the character of the broadside, *Elegy on the Death of David Haggart by a Young Woman who was at School with him*, who, though she wrote, 'David Haggart tho' but a youth, was very old in sin', clearly had a yearning for him.⁵ Her role is to rescue him and rehabilitate him as husband material.

Her 'goodness' is not at first made to seem an attractive alternative to sin. Annie makes several gloomy appearances, Bible in hand, to plead with her childhood friend, who in turn describes her as 'the cross I must bear'. In contrast to the frisky 'blones' with whom Davey likes to have his wicked way, she is a symbol of Calvinist virtue, rather like 'a maiden aunt' he says. There is comedy in the earnest severity of her deadpan sermons but a hint of seriousness in her message, 'Davey, you've been sinful but not black evil yet.' She offers him the road to redemption, 'Come away to the Highlands with me.' It takes a long time for Davey to recognise the love of a good woman and he pursues more transient available pleasures for a while. But of course in

⁴ Anon., *Animadversions* p.22.

⁵ *Elegy* (Edinburgh: Adams, 1821).

the end, it is Annie who is always there to help him out of the gathering mess as he faces a death sentence for 'various crimes.' Bad boys are transformed by love and Annie herself is thawed by the experience. Even a sophisticated cinema audience ready to laugh at sin wants its delinquents to be better. Leaving out Davey's murder conviction makes rehabilitation simpler.

Executing this nice young man would never do. But *Sinful Davey* does reach the Iron Room to await hanging after a trial for his 'various crimes'. There he is visited by the phrenologist, a Mr Robertson, the celluloid version of George Combe but named after Davey's real solicitor and executor. He is introduced as a scholar writing about the 'criminal mind' and Davey is impressed. It is a busy time in his cell because the phrenologist and the hangman both arrive at the same time and attempt to take measurements, the one of his 'bumps' and the other of his dimensions for the drop. At the same time, Davey has a flash of inspiration. 'I know how to be remembered', he says, 'I'll write my memoirs'. He writes with a flourish, and in great comfort, since a beautiful writing desk has been supplied by the Duke of Argyll. The film script reflects the scepticism of his critics about his veracity. 'Whose life are you writing?' asks his jailor incredulously, reading an account of his great bank robbery and pointing out that Davey could not have done it since it happened before he was born. 'I may as well be hanged for a pound as a penny', Davey replies.

Davey's frank commercialism follows him to the steps of the scaffold where he makes an enterprising 'Dying Speech'. Pointing out that it is customary to speak of repentance and warn the young, he uses the occasion to advertise his forthcoming book, which could be purchased at an affordable price. Though comic, this was by no

means far-fetched and there are examples of condemned men using the publicity of their execution dates to promote forthcoming books.⁶ Did he repent? His answer was a fair reflection of his *Life*. 'Standing up here, right now, I do repent, most sincerely,' he said, nervously looking around in the hopes that Annie would turn up to bail him out of a scrape too far. He was not, however, about to die. Annie and his friends have organised a rescue and are waiting under the scaffold trapdoor to cut him down and hurry him away in his coffin. He is last seen enjoying a party before settling down with Annie.

Far fetched as the film's plot seems, it may not have been very far from the image of criminal celebrity which David Haggart wanted for himself: a bit of a lad with a zest for 'the sporting life', liking to dress up and impersonate a gentleman, enjoying companionship, and getting into more or less harmless scrapes--he did not mean to kill Thomas. Death spoiled the story, and nothing would have spoiled it more than his own. When the real David was said to have gone to his execution as though to some entertainment, he may have had secret hopes of the happy ending his fictional self had in *Sinful Davey*, though of course it must be a matter of conjecture. There were always wild stories about people who had cheated the hangman and some that had a basis in fact. In the events leading up to the Porteous riots in 1736, one condemned man, Wilson, though handcuffed, had helped another, his accomplice Robertson, to escape from an outing to church the Sunday before they were due to hang. It was because Captain Porteous feared the rescue of Wilson at his subsequent hanging that he amassed so many troops and ordered them to fire when a stone was hurled from the

⁶ James McKaen, whose *Life* was reviewed *supra* Chapter 3, is one of the best examples. He wrote a short 'dying speech' but only as a trailer for his book. He wrote 'With respect to the various rumours that have gone forth against me in the world I chuse here to say nothing but refer all unto the Narrative of my life, which I have caused to be published.' McKaen, *The Last Speech, Confession, and Dying Declaration of James McKaen* (Glasgow: Galbraith, 1797).

crowd and struck the hangman. The stone came too late to save Wilson but set off a chain of events that led some months later to the death of Porteous at the hands of an angry mob.⁷ There were no precedents, however, for successful rescue from the gallows on the appointed day, and poor Robert Johnston survived for just an hour or so after the crowd rescued him in December 1818, only to be forced to hand him over to the hangman for a second attempt.

But what if the prisoner's friends could organise a speedy cutting down of the body within a few minutes of the hanging, in the manner of *Sinful Davey's* rescue? Could the body be resuscitated? Technically, it seemed possible to survive at least an incomplete hanging. In 1724, Margaret Dickson had survived a botched hanging and been exempted from a second attempt to live out the rest of her life as 'half-hangit Maggie' in Edinburgh.⁸ There were similar reports from Tyburn, including some of hanged men who had been brought back by surgeons when flickers of life had been observed at the point of dissection.⁹ Perhaps encouraged by these, James Boswell explored the possibilities of medical intervention to restore life. In 1774 he was unsuccessful in defending his client, John Reid, against a capital charge of sheep-stealing and a temporary reprieve he had won for him was running out. Boswell was passionate about this man's cause. He dined with Dr. Alexander Monro, the distinguished Edinburgh anatomist and founder of a family dynasty of anatomists, and gleaned some important information from him:

He said that it was more difficult to recover a hanged person than a drowned, because hanging forces the blood up to the brain with more violence, there being a local compression at the neck; but that he thought the thing might be

⁷ Robert McNeil, *The Porteous Riot* (Edinburgh: Cultural Heritage Unit, ?1989).

⁸ Boswell, *Boswell for the Defence* p.301 n.4. She was sentenced to hang for child murder. Later she and her husband were reconciled and had more children. She sold salt on the streets of Edinburgh.

⁹ Examples are given by Peter Linebaugh, 'The Tyburn Riot Against The Surgeons' in *Albion's Fatal Tree* ed. by Douglas Hay et al. (London: Allen Lane, 1976) pp.103-105.

done by heat and rubbing to put the blood in motion, and by blowing air into the lungs; and he said the best way was to cut a hole in the throat, in the trachea, and introduce a pipe. I laid all this up for service in case it should be necessary.¹⁰

It is a measure of the murky ethics surrounding the whole issue of using corpses for medical education at the time that Monro also told Boswell of how some of his students had made such an attempt at resuscitating two of Boswell's clients in a previous case. They had, however, failed to breathe life into John Brown and James Wilson, two tinkers hanged on 15 September 1773. The attempt had been made 'unknown to him', or so he said, and Monro had refrained from an attempt on another corpse for fear that if he did so without the consent of the Lord Justice-Clerk, 'the College of Edinburgh should never again get a body from the Court of Judiciary.'¹¹

Boswell got as far as looking for suitable premises near the place of execution, to which Reid could be taken immediately, and he recruited a surgeon, Alexander Wood, for the attempt. In the end, cooler judgement prevailed and the attempt was abandoned. On 20 September Wood told him:

That if I insisted on it, he was willing to make the experiment, but that as a friend he could not but advise against it; that it would be impossible to conceal it; the mob would press upon us, and continue looking through the door. A great clamour would be made against me as defying the laws and as doing a ridiculous thing, and that a man of business must pay attention to the voice of mankind; that the chances of success was hardly anything, and this was to be put in the scale of certainty of so many disagreeable consequences.¹²

Besides, added Wood, think about it from John Reid's point of view. He 'has got over the bitterness of death; he is resigned to his fate. He will have got over the pain of

¹⁰ William Winsett and Frederick Pottle, eds. *Boswell for the Defence* p. 305.

¹¹ *Ibid.*

¹² *Ibid.*, p.341.

death. He may curse you for bringing him back. He may tell you that you kept him from Heaven.'¹³ Boswell gave up the attempt.

Similar plots were hatched among friends and supporters of people hanged at Tyburn, including an abortive attempt to carry Jack Sheppard off for revival. Such a life after death was the subject of many preparations, but few documented successes. In Edinburgh in 1788 Deacon Brodie was widely rumoured to have worn a special collar under his neck-cloth, designed to absorb the shock of the drop, but the story lacks a factual basis¹⁴. The hopes of the condemned were nonetheless kept alive by these and other reports of revivals. There were reports of supposedly hanged men being seen alive after the event.

Half a century later there is no evidence that such a plot was even imagined, let alone organised, to bring Davey Haggart back to life, but life after death was still part of the gallows culture. Medical men were still fascinated by the possibilities. The most dramatic events had occurred in the anatomy theatre of Glasgow College when the lifeless body of Matthew Clydesdale, cut down from the scaffold on 4 November 1818, was apparently revived during the course of experimental 'galvanisation', when Professor Andrew Ure ran an electric current through the cadaver. It appeared to smile, twitch, even replicate the mechanics of breathing, but it did not, as one account had it, rise. It was, then, quite unnecessary for Professor Ure to plunge his lancet into Clydesdale's jugular vein, if he ever thought of doing so. The myths of what happened that day were the work of Peter Mackenzie in his *Reminiscences of*

¹³ Ibid.

¹⁴ William Roughead, *Trial of Deacon Brodie* 3rd ed., (Edinburgh: Hodge, 1921); Creech, William, *An Account of the Trial of William Brodie and George Smith* (Edinburgh: Creech, 1788).

Glasgow and the West of Scotland.¹⁵ The public imagination was fertile ground for them. In the 1820s, broadsides concerning amazing examples of corpses coming to life fuelled their credulity. There was, for example, *A full and Wonderful Narrative of the Extraordinary Sufferings of Mrs Jane Tomkinson, who fell into a trance, and was buried alive, a short time ago, in this vicinity—her observations and feelings—her extraordinary escape from the grave—her wonderful recovery in the Dissecting-room, in consequence of a galvanic experiment, and happy return to her family and friends—All as related by herself*.¹⁶ *Blackwood's Edinburgh Magazine*, with its loftier airs, published Henry Thomson's *Le Revenant*, in 1827, the tale of a man who was hanged but was brought back to life. It explored, 'in a low-level form of Romantic individualism' the idea that criminals have feelings too.¹⁷ Unsurprisingly, the story became so popular that it made its way into the broadsides too, 'with full particulars of the resuscitated.'

If Davey Haggart thought about such a life after death as an alternative to the one the clergy told him about it would not have been surprising. There is a couplet in the poem he wrote in jail that could be interpreted as a hint, where he writes, 'Now all ye rambles, in mourning go/ *For the Prince of rambles is lying low*.'¹⁸ Would he be lying low permanently or temporarily? It is too ambiguous to make much of. The ending of the film, *Sinful Davey*, allows the thought to be a wish granted. But the reality was very different. Davey was sentenced, in terms of the 1752 Act for

¹⁵ Peter Mackenzie, *Reminiscences of Glasgow* (Glasgow: John Tweed, 1865). For a more realistic modern account, S.S.Kennedy, K.J.McLeod and S.W.McDonald, 'And Afterwards Your Body to Be Given for Public Dissection': A History of the Murderers Dissected in Glasgow and the West of Scotland', *Scottish Medical Journal* 46 2001 pp.20-24.

¹⁶ *Extraordinary Case! A Full narrative of the sufferings of Mrs. Jane Tomkinson* (Edinburgh: nd) NLS F.3.(a) 13 (2). These stories tapped into public fears about being buried alive. See Philippe Aries, *The Hour of Our Death* (London: Allen Lane, 1981) Ch.9.

¹⁷ Stephen Knight, *Crime Fiction, 1800-2000*, p.16.

¹⁸ See Chapter 2.

Preventing the Horrid Crime of Murder 'to be hanged by the neck at the hands of the common Executioner upon a Gibbet until he be dead and his body thereafter be delivered to Dr Alexander Monro, Professor of Anatomy in the University of Edinburgh to be by him publickly (sic) dissected and anatomized in terms of the said Act.'¹⁹ Haggart had told his own story and George Combe had asked the world to believe the story told by his head. All that remained was for the inmost secrets of his body to be revealed to the public in a dissecting room.

If surgeons thought of dissection as primarily a means to advance scientific knowledge, few other people did. It was an awful punishment, reserved for murderers and traitors to strike terror into them and deter others. It was a 'deliberate breach of society-wide norms and values' about death and as Ruth Richardson observes:

Had Britain lacked a consensus attaching deep importance to the *post-mortem* care and integral burial of the corpse, such punishment would have no cultural meaning. The very fact that such methods were enlisted and maintained in the armour of judicial terror—and against the worst of transgressors—reveals the cultural importance of the taboos such punishments violated. Meanings and values attached to the customary treatment of the dead meant that in the early nineteenth century, dissection represented not only the exposure of nakedness, the possibility of assault upon and disrespect toward the dead—but also the deliberate mutilation and destruction of identity for eternity.²⁰

In a society which cared about the body as the house of the soul and attached great importance to that time when the one hovered around the other, dissection was a shocking denial of all the rituals and customs which protected both the living and the dead from unspeakable harms. It exploited the widespread belief that the criminal's

¹⁹ NAS JC8/16.

²⁰ Ruth Richardson, *Death, Dissection and the Destitute* (London: Routledge, Keagan Paul, 1987) pp.28-29.

soul would not rest while his remains were in pieces in an unsanctified place.²¹ For the sovereign it was the last act of power on public display. The surrender of the criminal's physical integrity was 'the symbolic power of knowledge over the individual, a continuation of the process by which the individual was forced, on the gallows, to acknowledge the legitimacy of the sovereign power over his or her body.'²²

If this broadside has any credibility at all, Robert Scott, who hanged at Edinburgh on 29 October 1823, was quite unusual in his apparent scorn for the whole business of dissection:

The prisoner was not the least moved with his awful situation, but in a bold manner and with an audible voice, said, "They might as well make pye-meat of his flesh, and whistles of his bones for any thing he cared, when his life was gone".²³

Perhaps his unusual nonchalance had something to do with the crime for which he was convicted, a murder which allegedly featured the cutting off and slitting of his victims' noses. Davey Haggart's views on his own impending dissection are not recorded.

It is probably safe to assume that he shared the fear and loathing of his contemporaries for all those involved in the provision of cadavers to the dissection room. In *Sinful Davey*, however, there is a scene in which a doctor catches Davey robbing his house and forces him to smuggle a body out of the graveyard for him. There is great comedy to be had from hiding it under cabbages and fleeing as the

²¹ Jonathan Sawday, *The Body Emblazoned: Dissection and the Human Body in Renaissance Culture* (London & N.Y.: Routledge, 1995) p.55.

²² *Ibid.*, p.64.

²³ *A Particular Account of the Trial and Sentence of Robert Scott*, (Glasgow: Carse, 1823) Murray Collection, Mu1-x11/256.

cargo spills over and all is revealed. The broadsides of the day, however, bristle with anger at the activities of grave robbers. A mob was easily fuelled by rumour. 'There was damage to a house in Glasgow's Clyde Street after word spread 'that the house was inhabited by surgeons, and that they were bleeding the children to death for the purposes of dissection'.²⁴ Just over a year later mobs broke into lecture rooms at Duke Street and Portland Street and in the former allegedly found 'a large tub of heads, arms, legs and mangled bodies.'²⁵ A legal investigation was promised.

Allowing for exaggeration and sensationalism, there was a problem. From the medical perspective, there simply were too few legal corpses. Only two or three a year would come from the gallows. It was not surprising that anatomists, and particularly their students, became involved with seedy suppliers. Public anger was justified. Broadside writers fumed over families who had run into debt to bury loved ones with dignity only to find the grave plundered. As for the needs of science:

We would recommend it to those who pretend that it is for the good of Society that Subjects should be had, in order to treat on, the number in that line being now very numerous, if they could bequeath their own bodies, at their death, for so laudable a purpose.²⁶

A few cases came to court. Thomas Stevenson was given a sentence of seven years' transportation, but this was only after lighter sentences for previous offences had failed to deter him.²⁷ Lord Pitmilny said he was aware of the popular estimate of the offence and also the 'injury which science would sustain from the offence being visited with a severe punishment', but he would be influenced by neither. The severity

²⁴ *A True Account of a dreadful Riot which took place in Clyde St. on Sunday evening, the 17th February, 1822*, Murray Collection Mu 1-x11/54.

²⁵ *Correct Account of the Riots: Concerning Stealing Dead Bodies in Different Parts of Glasgow on Saturday and Sunday, the 1st and 2nd March 1823* Murray Collection Mu1-x11/51.

²⁶ *Another Church Yard Pirate* (Glasgow: Carse, 1823) NLS L.C.Fol.73 (055)

²⁷ *Violating Sepulchres: A Full and Particular Account of the Trial of Thomas Stevenson* (Edinburgh: 1823) NLS L.C. Fol 74 (72).

of the sentence was unusual. It was an unsatisfactory state of affairs, however, to have respectable professional men consort with grave robbers and for the mob to resent their activities so much that they would take the law out of the hands of the magistrates and act as vigilantes. Finally there was a Select Committee in 1828 and legislation in 1832, the Anatomy Act, which increased the numbers of available corpses at the expense of the poor. It was an attempt to achieve 'a transition on a national scale from criminality and murder to a more law-abiding system'. It did not work well.²⁸

Davey Haggart, however, was a legitimate corpse by the time he reached Dr. Alexander Monro, in whose classroom the students and the public would be able to see his secret interior. Alexander Monro, tertius, had been appointed as Professor of Surgery and Anatomy in 1817. Both his father and grandfather had occupied the position and brought great distinction to it. The third generation's representative in the chair was a disappointing mediocrity, though he had two brilliant brothers who would have carried the family name more effectively had they been chosen. Monro's students scorned his practice of using his grandfather's lecture notes from the previous century without bothering to change the dates. Apparently he was showered with peas each year when he reminisced about 'When I was a student in Leyden in 1719.' Charles Darwin found his lectures 'as dull as he was himself.'²⁹ Davey died without the consolation of contributing much to the advancement of medical science.

Death and dissection were far too serious to be the fate meted out to the hero of *Sinful Davey*. When the Duke of Argyll pleaded with the judge to spare the life of Davey's

²⁸ Richardson, *Death, Dissection and the Destitute* p.239f.

²⁹ Quoted in John D. Comrie, *History of Scottish Medicine to 1860* (London: Balliere, Tindall & Cox, 1927) p.240.

film persona, it was because he found him a 'most entertaining fellow.' It was a judgement echoed in the most recent edition of the *Dictionary of National Biography* published in 2004 which ends with 'he seems indeed to have been a merry rogue'.³⁰

³⁰ *The Dictionary of National Biography* ed. H.C.G. Matthew and B.Harrison (Oxford: Oxford University Press c.2004).

CONCLUSIONS: WHAT THE BLIND MEN SAW

It was both the ordinariness and the extraordinariness of David Haggart that reflected so much light on the 'criminal narrative', the stories that people told about crime. It is still too early in and around 1820 to speak of theories about the aetiology of crime or the origins of 'criminal man' but phrenology was by then challenging assumptions about both sin and free will. The debate about the role of biology, the environment and determinism had begun. Scotland, Edinburgh in particular, was the perfect place for it to find protagonists. It was here that Calvinism and the Enlightenment were such close neighbours; here that publishers and booksellers provided such a lively public forum; here that lawyers and judges congregated to argue and apply the principles of Scots criminal law; here that the conditions of moral panic might be found where rapid urbanisation brought a drifting, perhaps dangerous underclass to worry respectable citizens. It was here that Davey Haggart strutted across the stage on his road to the gallows, leaving behind a memoir of what can only be described as quite an enjoyable adventure. In doing so he held a mirror that caught society on the cusp of change and reflected some very different ideas about him.

David Haggart was a guilty man. This is what the court saw. The lawyers and judges at his trial worked on the assumption that, if he was of sound mind, Davey was, like all other men, free to make moral choices and bound to take responsibility for his actions. This was the classic doctrine of the law. It was not concerned with the question of whether or not there were 'criminal types'. The High Court's inquiry, therefore, was limited to questions of fact, to establishing what had happened at lunchtime on the day Thomas Morrin died and Davey fled. It did this without hearing

Davey's story. At the precognition, the young man preferred not to say anything and at trial he had no right to give evidence. Thus the narrative heard by the jury was told by the prosecution witnesses, punctured only by whatever doubt the defence counsel could raise about it in the minds of the jurors, in this case none. He had no witnesses to help construct a counter-narrative.

It may have been no crumb of comfort to a man found guilty and sentenced to die but he had been, to an extent, the beneficiary of the Enlightenment. He fell foul of the criminal law at a time when it was in a robust, self-confident mood. Though Hume's *Commentaries*, first published in 1797, lacked a philosophical or theoretical core, they were an authoritative digest of current practice and a paean to the rationality and good sense of Scots law. The *Commentaries* made an argument for the superior humanity of Scots law and the virtues of its adaptability through judicial discretion rather than legislative clutter. Haggart had the benefit of a system which brought him to court at the behest of an independent public prosecutor, the Lord Advocate, and tried him before a full bench with fairer procedural protections than anywhere else in the kingdom, though that claim is more contentious. One advantage was beyond dispute. The accused in a High Court trial had the benefit of a skilled advocate. Davey made two appearances before that court and was well served by his lawyers. In the first case, Thomas Maitland challenged the form and sufficiency of the verdict on his behalf. The memorials written by both the crown office and the defence, together with the handwritten notes of the judges are evidence that serious attention was given to the point of law he raised. In the second case, on an indictment for murder, Henry Cockburn's great courtroom skills were on display, though they could not save him. Haggart was guilty, even in the eyes of his own lawyer, 'a scoundrel, a most perfect

and inveterate miscreant in all the darker walks of crime.'¹ By the standards of modern due process a trial in 1821 was a long way from satisfactory, but also a long way from being thrown to the lions. Cockburn himself was not sanguine about Hume's claims for the superiority of Scots law and campaigned amongst other things for reform of jury selection procedures. We find Davey in court at a time when advocates representing the poor were prepared to argue 'technicalities' and when the criminal law was on a long, slow, incremental march to modernity. His appearance there, however, exposed only a fragment of him, and wholly through the lenses of others, to whom he was simply a guilty man.

Davey Haggart was a sinner. Few contemporaries would have quarrelled with the law's premise that a man was free to make moral choices and was responsible for his actions. For the clergymen who gathered in numbers around the condemned man to prepare his launch into eternity, as well as the broadside hacks who made secular sermons from the same cloth and the outraged critics who feared for the youth of the land after the publication of Haggart's *Life*, the roots of the young man's wrongdoing were in 'sin'. Whereas courts of law restricted their inspection to the facts of a particular action, those whose concern was for the soul of the wrongdoer had a much wider and deeper perspective. Compassion, judgement and fear informed what they saw. Davey was a young man who was 'old in sin', as the young woman he had allegedly known at school wrote.² Some thought he could still be redeemed and enter the kingdom of heaven and others thought redemption had to be deserved or foreordained. All were agreed that whatever his fate in the next life, his sinful life and ignominious death were a warning to others. Parents must take heed and ensure that

¹ Cockburn, *Circuit Journeys* p.211.

² *Elegy on the Death of David Haggart, by a Young Woman who was at School with him* (Edinburgh: Adams, 1821).

children were brought up to obey God and distinguish right from wrong. Young people must take heed and obey their parents, attend church, and eschew bad company, women, gambling and drink. It was a formula that, a century and a half later, made audiences laugh at *Sinful Davey*. In the years after the Napoleonic Wars, however, it is not difficult to understand how fearful those who had property, businesses and orderly lives to defend were of those who did not. The thought that Davey's *Life* had inspired some of its youthful readers to adopt a fashionable, disrespectful slang, mock the 'bulkies' and perhaps imitate his 'sporting life', sent shockwaves through respectable Edinburgh. They saw a threat.

Davey was a hero. Though he spoke of fate in his *Life* he saw himself as a free spirit, in charge of his own destiny. He blamed no one else for his mistakes and took credit for his most successful escapades. He would have no quarrel with those who saw him as a free moral agent and even those who saw him as a sinner, though he admitted to feeling little remorse. His account of his life, however, is an adventure story in which he lived by his wits, took pleasure in honing his skills and enjoyed the lifestyle his ill-gotten gains financed. Davey's perspective was thus skewed by enjoyment and very probably also by his desire to tell a story that would place him amongst his most famous predecessors, like Jack Sheppard, Jack Rann and Jonathan Wild. As a boy his hero was William Wallace. As he grew up he still seems to have craved a life more romantic than that of being a poor and ill-educated youth without prospects. His crimes were often quite pedestrian and his escapes from rickety jails less marvellous than he thought, but he did attract public attention, not all of it bad. Broad-sides referred to him as a 'wonderful conjuror' and crowds gathered to see him at Dumfries when he was recaptured. The *Life* sold well. It did not, however, secure his place in

the rogues' gallery. The eighteenth century vogue for *picaresque* criminal biography was over. These were more serious times and this was Scotland. Indeed David's book marked a change in the genre. Thereafter, fewer criminals wrote their own stories and most biographers made their subject's moral deficiencies very clear. Readers became more interested in the detection of crime and in the analysis of criminal minds. David became a hero briefly to a cinema audience in the permissive 1960s, but to do so, death had to be removed from the tale.

David Haggart was a specimen. This was what George Combe saw when he took his measuring tape and callipers along to the condemned cell. His published reports on what he measured became part of a greater battle between phrenologists and anti-phrenologists. These were skewed by the necessity phrenologists felt to make everything fit a theory. As a canon ball in this war, therefore, Haggart posed problems, since his measurements did not appear to fit the theory. Nonetheless it was argued that his cranium revealed criminal propensities and that close inspection of any person's cranium would yield their character. Interestingly, this early attempt to apply biology to the study of the mind did not lead to completely determinist conclusions. David Haggart may have been born with bumps that made him more likely to steal and lie but it was not inevitable. The environment was also important and people could trump their bumps through learning how to obey the laws of nature. In the long term Combe's message was that all but the most extreme criminals could be rehabilitated rather than hanged. Though scientifically discredited and relegated to being a seaside entertainment it is now acknowledged that phrenologists were right about some things. Some brain functions are localised and criminal behaviour does seem to have a basis in both nature and nurture. Scholars have neglected Combe and

would recoil from any notion that he, rather than his adversaries, was an heir of the Enlightenment. He was an 'outsider' who nonetheless attempted to bring the empirical study of mankind to a wider public. He saw a young man whom nature had endowed with a criminal propensity for which his environment and education had not compensated.

Davey was a pathetic spectacle. The women who saw him on the road to the gallows wept. A large crowd stood hatless throughout his execution. Pity was certainly one emotion but the collective mind of the crowd is impenetrable. No doubt pity at the sight of a pretty boy trying to meet death courageously prevailed at one moment but vied with other feelings. The complexity of the crowd was well described by Gatrell:

People steered a wavering course between tacitly ethical approval, sardonic and transgressive defiance, and mockery, sentimental anguish, or outright voyeurism.³

Sinner, free moral agent or hero—perhaps a mixture of these was what they saw, and even if the spectators knew nothing about phrenological specimens, many would scuff Davey's face for evidence of criminal character. Their vision was skewed, probably literally in the crush of the crowd and in other respects by the ways in which penny broadsides represented him.

And the 'true' story of David Haggart? There is none. Each observer sees something different and fragmentary. Had he lived in the twenty-first century, he would in all probability have been excluded from school, seen a psychologist, earned an ASBO (anti-social behaviour order), been the subject of social work reports and spent a long time behind less rickety jail bars than the ones he broke through. Perhaps he would

³ Gatrell, *The Hanging Tree* p.198.

have featured on 'reality' television or attended a creative writing class in jail. A different set of 'six blind men' would have examined his life and reported what they saw. Each would have been partly right and all would have been wrong.

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